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Legislative History – Montana Session Law

Chapter: 341 Session L: 1983
Bill Number: HB 420

Checklist of Bill History

History and Final Status Sheet

Introduced Bill	☒
Fiscal Note	☐
Third Reading Bill	☐
Final Version of Bill	☒

House	Senate
Committee: Business & Industry	Committee: Public Health, Welfare, & Safety
Hearing Date(s): 1/26/1983	Hearing Date(s): 3/11/1983
Committee Report: 1/26/1983	Committee Report: 3/18/1983

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 6/27/2024

Notes:

SIGNED: 04/15/83, CHAPTER 515

HB 420 -- DOZIER -- TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO TOURIST CAMPGROUNDS AND TRAILER COURTS; TO EXCLUDE FROM REGULATION PLATTED AND FILED TRAILER COURTS SERVED BY PUBLIC WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS; TO PROVIDE FOR THE REGULATION OF WORK CAMPS AND YOUTH CAMPS; AMENDING
BY REQUEST OF: THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

INTRODUCED: 01/20/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/20/83
HEARING: 1/26/83
REPORT: 01/26/83, DO PASS
2ND READING: 01/29/83, DO PASS, AS AMENDED AYES: 82; NAYS: 8
3RD READING: 02/01/83, DO PASS AYES: 77; NAYS: 22

TRANSMITTED TO SENATE: 2/1/83
REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY: 02/02/83
HEARING: 3/11/83
REPORT: 3/18/83, BE CONCURRED IN
2ND READING: 03/21/83 AYES: 48; NAYS: 0
3RD READING: 03/23/83 AYES: 44; NAYS: 6

RETURNED TO HOUSE: 03/23/83

TRANSMITTED TO GOVERNOR: 3/30/83
SIGNED: 4/2/83, CHAPTER 341

HB 421 -- THOFT -- PROVIDING THAT A TAX LEVY FOR THE FIREFIGHTERS' DISABILITY AND PENSION FUND IMPOSED BY A THIRD-CLASS CITY OR TOWN MUST BE MADE IN ADDITION TO THE ALL-PURPOSE MILL LEVY; AMENDING

INTRODUCED: 01/20/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 01/20/83
HEARING: 1/27/83
REPORT: 01/27/83, DO PASS
2ND READING: 01/31/83, DO PASS AYES: 93; NAYS: 0
3RD READING: 02/02/83, DO PASS AYES: 99; NAYS: 0

TRANSMITTED TO SENATE: 2/2/83
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 02/03/83
HEARING: 3/3/83
REPORT: 3/18/83, BE CONCURRED IN
2ND READING: 03/22/83 AYES: 49; NAYS: 0
3RD READING: 03/24/83 AYES: 47; NAYS: 2
RETURNED TO HOUSE 3/24/83

TRANSMITTED TO GOVERNOR: 03/31/83
SIGNED: 04/05/83, CHAPTER 372

HB 422 -- PECK, BACHINI, FARRIS, ET AL. -- TO ALLOW THE TRUSTEES OF A SCHOOL DISTRICT TO MEET AT ANY TIME FROM FEBRUARY 1 THROUGH THE FOURTH MONDAY IN JUNE TO ADOPT A PRELIMINARY BUDGET FOR THE ENSUING SCHOOL FISCAL YEAR; TO REQUIRE THAT THE TRUSTEES PUBLISH A NOTICE OF THE MEETING AT LEAST 2 WEEKS IN ADVANCE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE DISTRICT; TO ELIMINATE THE REQUIREMENT THAT THE COUNTY SUPERINTENDENT PUBLISH A NOTICE OF THE PRELIMINARY BUDGET MEETING; AMENDING

INTRODUCED: 01/20/83

HOUSE BILL 420

INTRODUCED BY DOZIER

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

IN THE HOUSE

January 20, 1983	Introduced and referred to Committee on Business and Industry.
January 26, 1983	Committee recommend bill do pass. Report adopted.
	Statement of Intent attached.
January 27, 1983	Bill printed and placed on members' desks.
January 29, 1983	Second reading, do pass as amended.
January 31, 1983	Correctly engrossed.
February 1, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 2, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 18, 1983	Committee recommend bill be concurred in. Report adopted.
March 21, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in. Ayes, 44; Noes, 6.

IN THE HOUSE

March 23, 1983

Returned to House.

March 24, 1983

Sent to enrolling.

Reported correctly enrolled.

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3 BY REQUEST OF THE DEPARTMENT OF
4 HEALTH AND ENVIRONMENTAL SCIENCES
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8 COURTS; TO EXCLUDE FROM REGULATION PLATTED AND FILED TRAILER
9 COURTS SERVED BY PUBLIC WATER SUPPLY AND SEWAGE DISPOSAL
10 SYSTEMS; TO PROVIDE FOR THE REGULATION OF WORK CAMPS AND
11 YOUTH CAMPS; AMENDING SECTIONS 50-52-101 THROUGH 50-52-103,
12 50-52-105, AND 50-52-301, MCA."
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 Section 1. Section 50-52-101, MCA, is amended to read:
16 "50-52-101. Definitions. As used in this chapter,
17 unless the context clearly indicates otherwise, the
18 following definitions apply:
19 (1) ~~"Board" means the board of health and~~
20 ~~environmental sciences~~ "Campground" means a parcel of land
21 available to and used by the public for camping, where
22 persons can camp, secure tents or cabins, or park trailers
23 for camping and sleeping purposes.
24 (2) "Department" means the department of health and
25 environmental sciences.

1 (3) "Establishment" means a campground, trailer court,
2 work camp, or youth camp.
3 (4) "Parcel of land" means a unit of land all parts of
4 which are contiguous, including contiguous lots, in the
5 possession of, owned by, or managed by the same person.
6 ~~(3)(5)~~ "Person" includes an individual, partnership,
7 corporation, association, or other entity engaged in the
8 business of operating, or owning, or offering the services
9 of a tourist campground, or trailer court, work camp, or
10 youth camp.
11 (6) "Political subdivision" means any county, city,
12 town, or other legally constituted unit of local government
13 in this state.
14 ~~(4)~~ "Tourist campground" means a place used for public
15 camping primarily by automobile tourists where persons can
16 camp or secure tents or park individual trailers or truck
17 trailers for camping and sleeping purposes.
18 ~~(5)(7)~~ "Trailer court" means a parcel of land offered
19 to the public and usually designated a trailer court,
20 trailer park, or mobile home park upon which two or more
21 spaces are occupied or intended available to the public and
22 designated for occupancy by trailers or mobile homes for
23 nonrecreational dwelling purposes use as residences, except
24 that the term does not include a parcel composed of platted
25 lots, each lot of which is filed with the county clerk and

recorder, contains only one trailer space, and is served by a public water supply system and public sewage system which meet the requirements of rules for such systems adopted pursuant to title 75, chapter 6, part 1, and which is located within the boundaries of an incorporated city or town.

(8) "Work camp" means a parcel of land on which housing is provided by a person for two or more families or individuals living separately, for the exclusive use of the employees of such person and the families, if any, of the employees. For purposes of this subsection, "housing" includes but is not limited to camping spaces; trailer parking spaces; mobile, modular, or permanent barracks or structures; and any appurtenant water supply and distribution system, sewage collection and disposal system, solid waste collection and disposal system, or food service and dining facilities. "Housing" does not include shelter provided by an employer for persons who are employed to perform agricultural duties on a ranch or farm.

(9) "Youth camp" means a parcel of land on which permanent buildings, tents, or other structures are maintained as living quarters for 10 or more people and that is used primarily for educational or recreational use by minors. The term includes any appurtenant water supply and distribution system, sewage collection and disposal system,

solid waste collection and disposal system, or food service and dining facilities. The term does not include any site used solely by the members and their families of a private organization that owns the site."

Section 2. Section 50-52-102, MCA, is amended to read:

"50-52-102. Department to adopt rules. The department shall adopt rules for constructing and operating ~~tourist~~ campgrounds, ~~and trailer courts, work camps, and youth camps~~ to insure sanitation and protect public health."

Section 3. Section 50-52-103, MCA, is amended to read:

"50-52-103. Duty to obtain license and permit inspections. A person operating ~~a tourist campground or trailer court~~ an establishment shall:

(1) ~~obtain or possess a current~~ license to do so from the department; ~~However, a campground owned by the state or a political subdivision need not obtain a license but must comply with rules applicable to it adopted by the department.~~

(2) permit inspections by state or local health officers, sanitarians, or other authorized persons at all reasonable times."

Section 4. Section 50-52-105, MCA, is amended to read:

"50-52-105. Violation of chapter a misdemeanor. (1) A person violating a provision of this chapter or a rule made under it shall be guilty of a misdemeanor and upon

conviction shall be fined not less than \$50 or more than \$100 for the first offense and not less than \$75 or more than \$200 for the second offense, and for the third and subsequent offenses, he shall be punished by a fine of not less than \$200 and imprisonment in the county jail not to exceed 90 days.

(2) Fines shall be paid to the county treasurer of the county in which the ~~tourist-campground-or-trailer-court establishment~~ is located. The county treasurer shall send all fines collected to the state treasurer for deposit in the state general fund."

NEW SECTION. Section 5. Injunction. The department or a local board of health may petition the district court to enjoin any action in violation of this chapter or of a rule adopted by the department pursuant to this chapter.

Section 6. Section 50-52-301, MCA, is amended to read: "50-52-301. Health officers to make inspections. The department or local health officer or sanitarian shall:

(1) inspect ~~tourist-campgrounds-and-trailer-courts establishments~~ during reasonable hours as necessary;

(2) ~~supervise the inspection of tourist-campgrounds-or-trailer-courts-by-local-health-officers-sanitariany-or other-authorized-persons-as-necessary.~~"

NEW SECTION. Section 7. Codification instruction. Section 5 is intended to be codified as an integral part of

Title 50, chapter 52, part 1, and the provisions of Title 50, chapter 52, apply to section 5.

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NEW SECTION. Section 9. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 420

3 House Business and Industry Committee

4

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Approved by Committee
on Business and Industry

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HOUSE BILL NO. 420

INTRODUCED BY DOZIER

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HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
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REFERENCE BILL

HB 420

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BY REQUEST OF THE DEPARTMENT OF

HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO TOURIST CAMPGROUNDS AND TRAILER COURTS; TO EXCLUDE FROM REGULATION PLATTED AND FILED TRAILER COURTS SERVED BY PUBLIC WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS; TO PROVIDE FOR THE REGULATION OF WORK CAMPS AND YOUTH CAMPS; AMENDING SECTIONS 50-52-101 THROUGH 50-52-103, 50-52-105, AND 50-52-301, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-52-101, MCA, is amended to read:

"50-52-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences. "Campground" means a parcel of land available to and PRINCIPALLY used by the public for camping, where persons can camp, secure tents or cabins, or park trailers for camping and sleeping purposes.

(2) "Department" means the department of health and environmental sciences.

(3) "Establishment" means a campground, trailer court, work camp, or youth camp.

(4) "Parcel of land" means a unit of land all parts of which are contiguous, including contiguous lots, in the possession of, owned by, or managed by the same person.

(5) "Person" includes an individual, partnership, corporation, association, or other entity engaged in the business of operating, or owning, or offering the services of a tourist campground, or trailer court, work camp, or youth camp.

(6) "Political subdivision" means any county, city, town, or other legally constituted unit of local government in this state.

(7) "Tourist campground" means a place used for public camping primarily by automobile tourists where persons can camp or secure tents or park individual trailers or truck trailers for camping and sleeping purposes.

(8) "Trailer court" means a parcel of land offered to the public and usually designated as a trailer court, trailer park, or mobile home park upon which two or more spaces are occupied or intended available to the public and designated for occupancy by trailers or mobile homes for nonrecreational dwelling purposes use as residences, except that the term does not include a parcel composed of platted lots, each lot of which is filed with the county clerk and

recorder, contains only one trailer space, and is served by a public water supply system and public sewage system which meet the requirements of rules for such systems adopted pursuant to Title 75, chapter 6, part 1, and which is located within the boundaries of an incorporated city or town.

(8) "Work camp" means a parcel of land on which housing is provided by a person for two or more families or individuals living separately, for the exclusive use of the employees of such person and the families, if any, of the employees. For purposes of this subsection, "housing" includes but is not limited to camping spaces; trailer parking spaces; mobile, modular, or permanent barracks or structures; and any appurtenant water supply and distribution system, sewage collection and disposal system, solid waste collection and disposal system, or food service and dining facilities. "Housing" does not include shelter provided by an employer for persons who are employed to perform agricultural duties on a ranch or farm.

(9) "Youth camp" means a parcel of land on which permanent buildings, tents, or other structures are maintained as living quarters for 10 or more people and that is used primarily for educational or recreational use by minors. The term includes any appurtenant water supply and distribution system, sewage collection and disposal system,

solid waste collection and disposal system, or food service and dining facilities. The term does not include any site used solely by the members and their families of a private organization that owns the site."

Section 2. Section 50-52-102, MCA, is amended to read: "50-52-102. Department to adopt rules. The department shall adopt rules for constructing and operating tourist campgrounds, and trailer courts, work camps, and youth camps to insure sanitation and protect public health."

Section 3. Section 50-52-103, MCA, is amended to read: "50-52-103. Duty to obtain license and permit inspections. A person operating a tourist campground or trailer court establishment shall:

(1) obtain or possess a current license to do so from the department. However, a campground owned by the state or a political subdivision need not obtain a license but must comply with rules applicable to it adopted by the department.

(2) permit inspections by state or local health officers, sanitarians, or other authorized persons at all reasonable times."

Section 4. Section 50-52-105, MCA, is amended to read: "50-52-105. Violation of chapter a misdemeanor. (1) A person violating a provision of this chapter or a rule made under it shall be guilty of a misdemeanor and upon

conviction shall be fined not less than \$50 or more than \$100 for the first offense and not less than \$75 or more than \$200 for the second offense, and for the third and subsequent offenses, he shall be punished by a fine of not less than \$200 and imprisonment in the county jail not to exceed 90 days.

(2) Fines shall be paid to the county treasurer of the county in which the ~~tourist--campground-or-trailer-court establishment~~ is located. The county treasurer shall send all fines collected to the state treasurer for deposit in the state general fund."

NEW_SECTION. Section 5. Injunction. The department or a local board of health may petition the district court to enjoin any action in violation of this chapter or of a rule adopted by the department pursuant to this chapter.

Section 6. Section 50-52-301, MCA, is amended to read:

"50-52-301. Health officers to make inspections. The department or local health officer or sanitarian shall:

(1) inspect ~~tourist--campgrounds--and-trailer-courts establishments~~ during reasonable hours as necessary;

(2) ~~supervise the inspection of tourist-campgrounds-or-trailer-courts-by-local-health-officers--sanitarians--or other-authorized-persons-as-necessary.~~"

NEW_SECTION. Section 7. Codification instruction. Section 5 is intended to be codified as an integral part of

Title 50, chapter 52, part 1, and the provisions of Title 50, chapter 52, apply to section 5.

NEW_SECTION. Section 8. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

NEW_SECTION. Section 9. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

-End-

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on January 26, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present.

HOUSE BILL 408

REP. JERRY DRISCOLL, District 69, sponsor, opened by saying the purpose of this bill is to require that the last car on each freight train must be a caboose carrying at least one railroad employee. The reasoning behind this is primarily safety - to insure that someone will see if something goes wrong.

PROPOSERS:

Morris Gullickson, United Transportation Union, Livingston, said the caboose seats face the train at all times. The railroads are hauling some very dangerous loads and they need to be watched.

TOM HANNING, BN conductor, Havre, said trains sometimes run up to 9,000 feet and with the kinds of materials they haul, they can't afford an accident. He said they are there to make repairs in case of a breakdown. There are 20 crossings between Havre and Chinook, a distance of 20 miles and a breakdown would probably cause the crossings to be blocked for school buses, emergency vehicles, etc. He said if we can move these trains and keep them moving, it will help the public. Most importantly, they have constant vision up the side of the train.

ROGER WAGNER, BN conductor, Whitefish, said his train operates over 3 high trestles and through 7 tunnels on his run to Spokane and that the conductor is very important to act as a lookout for trains 8,000 feet in length.

ELMER GILCHREST, BN conductor, Glasgow, said they have shiftable loads that need to be observed from both ends of the train. He said the engineer has to look forward all the time and the caboose is needed to keep watch on the train.

LEE TORGRIMSON, United Transportation Union, Missoula, is an engineer with Burlington Northern. He said we have mountains in Montana where a caboose is very necessary which might not be true in flat country.

JOE BRAND, District 28, said he was an employee of the railroad for 38 years and that shiftable loads are the thing that mechanized detectors will not pick up. He stated that many times that he has seen, whole box cars would have burned up had it not been for the people on the end of the train. The workers of the railroad are very nervous about the agreement signed by representatives of their union. He said to look at the massive layoffs that have taken place in the last 3 or

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4 years. We want jobs for our state and cutting off cabooses and maintenance people will lead to more depression.

JIM MULLEN, Brotherhood of Railway Clerks, Butte, said he leaves it up to the committee to decide if a train should be watched from the rear as well as from the front end.

CARL KNUTSON, Glendive, Mt., said he has observed many accidents being avoided because of the people in the caboose. He believes there would be a lot more accidents if we do away with them.

JACK HARRIS, BN conductor, Whitefish, weather conditions in Montana have been known to create problems in the mountains with the operation of a train. It's physically impossible to detect a problem in a blizzard with a 6,000 foot train.

RAY WEST, BN conductor, Havre, said he agreed with all the testimony he had heard and would urge the committee to pass HB 408.

REP. BACHINI stated he would like to go on record as supporting HB 408.

OPPONENTS:

TOM DOWLING, Montana Railroad Association, said one concern of the Railroads is cost. If they have a caboose on every train it's going to cost a lot of money and raise rates and become less competitive. He stated this should be a collective bargaining bill instead of in the Legislature. This bill would require every freight train to have a caboose whether it be three or four cars or a train switching in the yard.

CLAUDE SHEAK, Assistant to Vice President - Labor Relations of Burlington Northern Railroad, said in the State of Montana, most of Burlington Northern's mainline trackage is governed by Centralized Traffic Control and Automatic Block Signal systems. A train operating on these lines receives its protection by reliable, fail-safe signaling that obviates the need for caboose flagmen. The United Transportation Union that represents brakemen and conductors, agreed last October to follow the recommendation of Presidential Emergency Board No. 195 which provided for the elimination of cabooses in all classes of service. Cabooses cost \$80,000 which is passed on to shippers and consumers.

REP. DRISCOLL, in closing, asked the committee to consider the disasters that were avoided because a caboose was on the train. He asked, "Competitive with whom?" They are the only railroad in the state and the truckers have just been hit with a big tax that takes away their competitive edge.

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Business & Industry Committee

REP. PAVLOVICH: Mr. Sheak, if we eliminate the caboose will freight prices go down? Mr. Sheak: There would not be any great impact at first, but you would eventually.

Rep. Pavlovich: The incident that happened at Belt - was there a caboose on that train? Mr. Sheak: Yes, and there was one at Livingston, Louisiana and it didn't prevent the accident.

REP. KADAS: Do you have a definition of freight train? Rep. Driscoll: A train travelling on the main track. Rep. Kadas: How would you feel if we put a 35 car minimum on it? Tom Hanning: I can't see where a 35 car limit would definid anything. Each car is 95 feet in length times 35...

Mr. Gullickson: A definition of freight train would be a train that leaves a terminal for another terminal. 15 or 20 cars should have a caboose.

REP. FAGG: Are you a member of the United Transportation Union?

Mr. Gullickson: Yes. Rep. Fagg: It says in the agreement that you agreed to the elimination of cabooses. Why are you resisting the union recommendations? Tom Hanning: They didn't notify us and we were forced into this. The first we heard of it was from the New York Journal.

REP. KADAS: Do you think this controversy belongs in the Legislature or at the bargaining table? Mr. Torgrimson: The union had no choice but to go back to work after the Presidential Emergency Board. We had no say in it. Washington is unresponsive to Montana. The safety issue was probably not brought up. The economy comes into it rather than the safety of the employees and the public.

REP. BUCHINI: You said that the equipment along the railroad track is fail-safe, right? Mr. Sheak: The automatic light system is fail-safe. I didn't say the other equipment was fail-safe, but their track record is extremely good. We plan to bring in the very best equipment where we plan to operate without cabooses in this area. Rep. Bachini: How will the black box indicate things like fires? Mr. Sheak: They have operated for 17 years without the cabooses in many states. Rep. Bachini: You say the freight rates will be reduced. I remember when you eliminated the firemen and said it would reduce rates. The very next day the freight rates were increased. Mr. Sheak: I think it will increase less. Rep. Bachini: It's possible for a train to leave with 4 or 5 cars and end up with a hundred cars or more. Mr. Sheak: True.

REP. PAVLOVICH: Mr. Manning, you would like to respond? Mr. Manning: I don't know of "one" detector that is fail-safe, they're always breaking down.

REP. ELLERD: Do you have records of how many trains involved in serious accidents were operating without a caboose? Mr. Sheak: They all had cabooses.

REP. KITSELMAN: The agreement was signed in October 1982 and it seems like both parties are bound to honor it. Every time you disagree, are you going to bring it to the Legislature?

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Business & Industry Committee

REP. DRISCOLL: This was not a collective bargaining agreement. The Presidential Emergency Board forced this down these people's throats. Rep. Kitselman: It's signed by the UTU.

REP. ELLERD: Didn't the union ratify on the agreement?

Mr. Sheak: The union representative before the board adopted the Emergency Board's recommendations. Then under a system peculiar to the Transportation Union he put this agreement out under their ratification process and it was ratified by representatives of the local unions.

HOUSE BILL 420

REP. ROBERT DOZIER, District 61, sponsor, opened by saying this was a simple bill to revise and broaden the laws covering tourist campgrounds and tourist courts.

JAMES T. HILL, Department of Health, said this bill would include a statement of intent. He pointed out the major things this bill would do. It would redefine "campground" and include cabins. It would add "work camps or youth camps" to the definition. It would eliminate the licensure of certain forms of trailer camps. It would provide a uniform standard for camps through routine inspections. The mineral exploration in eastern Montana has had an impact on the need for this bill. Many hookups are left vacant when exploration ends and people then want to step in and make campgrounds from them. There are many health hazards involved which this bill will rectify. (Exhibit #1)

OPPONENTS: none

QUESTIONS:

REP. SCHULTZ: I notice on the statement of intent that you are probably going to have 10 pages of rules and regulations. We are giving you an open-end authority to do what you want?

Mr. Hill: We would first tie in all the rules that already exist that would apply and then we would fill in the gaps.

REP. HANSEN: How will this affect youth camps such as Campfire and Boy Scouts? Mr. Hill: Not adversely, we want to make camps that are clean and healthy to campers. Safety is our main concern.

REP. ELLISON: Youth camps would exclude church camps? Mr. Hill: We would exempt camps that operate solely for its own members. If they rent the camp out, then we have authority.

HOUSE BILL 290

REP. CARL SEIFERT, District 26, sponsor, opened by saying he spent 15 years in the petroleum business and has felt for years that this bill was needed. He said the bill defines wholesale distributor and would not affect the tax mechanism of the state. It provides an option for the distributor to collect the tax himself. He does not think that private enterprise should be penalized for being a tax collector for the State of Montana. It will allow the wholesale petroleum distributor the option to pay the taxes

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Business & Industry Committee

on a 30 day basis, which they should be able to do.

PROPOSERS:

JOHN BROWNBECK, Montana Intermountain Oil Marketers Association, said they have been working closely with Norris Nichols to make sure no problems were created. This bill is all existing statutes. They clarified this particular section so Montana jobbers could exercise the option. We would suggest an amendment to this bill that Nichols concurs with: On page 3, line 7: Insert: "Shall have the option of becoming licensed as a gasoline distributor." This does not include retail distributors.

OPPOSERS: none

QUESTIONS:

REP. ELLERD: The distributor would purchase his fuel and when he sells it he would sell it with the tax added on at that time?

Rep. Seifert: Yes, on a monthly basis. Rep. Ellerd: But he is responsible to see that it is collected? Rep. Seifert: Yes.

PAUL VERDON: 15-72-704 requires every distributor to pay to the Dept. of Revenue the license tax. There's another section 15-70-205 explains the mechanics of payment.

REP. KADAS: You said this has no major impact but it saves you \$1,600 a month? When the distributor pay cash doesn't the state earn interest on that money? Rep. Seifert: Probably. Rep. Kadas: So, instead the major oil companies will now earn the interest.

REP. METCALF: How many wholesalers are there in the state?

Mr. Brownbeck: My guess would be 200 to 300.

HOUSE BILL 267

REP. LES KITSELMAN, District 60, sponsor, opened by saying this bill changes the amount to be charged for transfer of equity title from \$15 to \$75. Currently, the banks are charging \$67.50 to give a little expansion room this bill allows \$75.

STAN HILL, Vice President - 1st Bank of Billings, said they feel the time spent processing transfer of equity on mobile homes is as much as when processing a new loan transaction. From a recent study, the cost is estimated at \$67.50. He urged passage so they could recover their costs and continue to make transfers for their customers.

TOM CORRUTHERS, 1st Bank of Helena, said financial institutions are getting out of the mobile home financing business because they cannot recoup their costs. This is an important service to many Montanans so he urged passage of HB 267.

ED SHEEHY, JR., Montana Manufactured Housing Association, said they very much want financial institutions to continue to process transfers of equity. The \$15 was set in 1959 and it was time to raise it.

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Business & Industry Committee

GRETCHEN TEA, Montana Bankers Association, said 98% of their members endorse passage of this bill.

OPPONENTS: none

QUESTIONS:

REP. FABREGA: I assume if this fee is not increased, the only option you are left with is to offer refinancing where you can charge the more expensive fee? Mr. Hill: Right.

REP. WALLIN: You are adding quite an extra burden by increasing the fee by this amount. Mr. Hill: I think it will reduce repossession because a new buyer has to put up less money on a repossession to get into that mobile home than he would have to put up on a new home and start a new contract with the dealer.

REP. WALLIN: Is this only for mobile homes? Mr. Hill: Mostly to mobile homes although it would apply on a repossession of a vehicle, etc.

EXECUTIVE SESSION:

REP. KITSELMAN moved that HOUSE BILL 267 DO PASS.

REP. HARPER: How long does one of these transactions take?

REP. WALLIN: Probably a half hour...a more appropriate amount might be \$45. Rep. Metcalf: On a \$20,000 transaction, another \$15 or \$20 isn't going to matter that much.

Question:

The motion carried that HOUSE BILL 267 DO PASS. The vote was 18 - 1 with Rep. Wallin voting no.

HOUSE BILL 290

PAUL VERDON: This bill amends the definition of distributor to include the wholesale distributor but also leaves in the bill the definition of a distributor as any person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline for sale; so this person is a distributor and is required to pay this tax. Therefore, the distributor has already paid that tax before he sells it to the wholesaler so presumably the wholesaler is going to have to pay that tax to the refinery anyway. I don't think we can add it to the title.

Rep. Metcalf: Paul will research this bill and report back.

HOUSE BILL 420

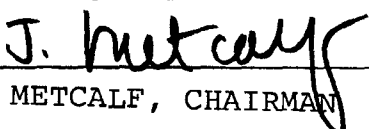
REP. HART moved that HOUSE BILL 420 DO PASS.

Question:

The motion carried by unanimous vote.

REP. HART moved that the Statement of Intent do pass. Carried by unanimous vote. (Exhibit #2)

The hearing adjourned at 11:30 a.m.


JERRY METCALF, CHAIRMAN

STANDING COMMITTEE REPORT

.....January 26..... 19...31..

MR. Speaker:.....

BUSINESS & INDUSTRY

We, your committee on.....

HOUSE

267

having had under consideration Bill No.

first reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE
ALLOWABLE FEE FOR TRANSFER OF EQUITY INCIDENT TO A RETAIL
SALE; AMENDING SECTION 31-1-234, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

HOUSE

267

Respectfully report as follows: That..... Bill No.

DO PASS

January 26

83

19

MR. **Speaker**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE** Bill No. **420**

first reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO TOURIST CAMPGROUNDS AND TRAILER COURTS; TO EXCLUDE FROM REGULATION PLATTED AND FILED TRAILER COURTS SERVED BY PUBLIC WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS; TO PROVIDE FOR THE REGULATION OF WORK CAMPS AND YOUTH CAMPS; AMENDING SECTIONS 50-52-101 THROUGH 50-52-103, 50-52-105, AND 50-52-301, MCA."

HOUSE

420

Respectfully report as follows: That..... Bill No.....

DO PASS

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS AND INDUSTRY, HAVING
HAD UNDER CONSIDERATION HOUSE BILL NO. 420, FIRST
READING COPY WHITE, ATTACH THE FOLLOWING STATEMENT OF INTENT:

"STATEMENT OF INTENT
HOUSE BILL NO. 420"

A statement of intent is required for House Bill 420 because it adds authority for the Department of Health and Environmental Sciences to adopt rules setting sanitation standards for work camps and youth camps. The law presently allows the department to set standards for trailer courts and tourist campgrounds ensuring a level of sanitation adequate to protect public health. The need for similar uniform state standards for work camps and youth camps has become apparent, largely because such facilities are not uniformly regulated across the state and are subject to local standards ranging from stringent to minimal. Therefore, it is the intent of House Bill 420 to give the department authority to set sanitation standards for both work camps and youth camps which ensure adequate facilities exist for proper sewage disposal, require storage and disposal of solid waste in a manner adequate to prevent contamination and spread of disease, ensure that food is handled and food service maintained in a manner sufficient to prevent food-related illness, ensure that water supplies are adequate and uncontaminated, and define general housekeeping practices needed to ensure sanitation.

Linda Palmer

INFORMATION RELATIVE TO HB BILL NO. 420

Section 1 50-52-101(1) The definition of "Board" is no longer needed as the term is not used in the statute or in the rules adopted under the statute.

(1) "campground" formerly "tourist campground", redefined for the sake of clarity and to include cabins. Rustic cabins often constitute a significant portion of a campground. Although such cabins could feasibly be reviewed and licensed as motel units under the public accommodations licensing statute (50-51 MCA), the rules relating to motels are relatively restrictive. Licensure of rustic cabins as campgrounds would allow for less restrictive requirements and would eliminate the need for dual licensure of a facility which offered camping spaces and cabins.

(3) "Establishment" is defined for the sake of clarity, to avoid the need to reference trailer court, campground, youth camps and work camps throughout the act.

(4) "Parcel of Land", a term used in the definition of trailer court and in the proposed definition of campground has been interpreted in different ways by various individuals. The definition proposed is a workable interpretation of the term.

(5) "Person" is redefined merely to reflect the amendments proposed in this bill.

(6) "Political subdivision" is defined because it is a new term used in Section 50-52-103.

(7) "Trailer Court" is redefined to exempt from review and licensure certain trailer spaces which, because they are under the control of other agencies, should not be subject to review and licensure under this act.

(8) "Work Camp" is defined to enable the department to require review and licensure of housing provided by a company for its workers, in the interest of controlling improper sewage disposal practices, improper solid waste storage and disposal practices, and to provide the worker and his family some assurance that the housing provided meets a basic standard of sanitation.

Work camps are generally constructed when there is a short-term need for a large number of workers and little permanent housing is available. Most often they resemble trailer courts or campgrounds in design, but cannot be reviewed and licensed as such because they are not available to the public.

(9) "Youth Camp" is defined to enable the department to require review and licensure of camps which are made available to the general public in the interest of insuring that a person or group utilizing such a camp is not subjected to unreasonable health hazards due to improper construction or operation of the camp.

Such camps are in many cases inspected by local health departments upon request by the camp operator; however, in many other cases the camps

operate with no health department involvement. Because there are no set standards to apply, the requirements imposed on those camps which are inspected may differ from county to county.

The proposed legislation would allow for uniform standards applied through routine inspections.

- Section 2 50-52-102 extends the department's rulemaking authority to work camps and youth camps.
- Section 3 50-52-103 extends the requirement to obtain a license to work camps and youth camps and exempts from licensure campgrounds owned by the state or a political subdivision.
- Section 4 50-52-105 is amended to reflect the addition of work camps and youth camps.
- Section 5 (New) is added to make it clear that the department may seek injunction if necessary to insure compliance with the act or rules adopted under the act.
- Section 6 50-52-301 is amended to reflect the addition of work camps and youth camps.

STATEMENT OF INTENT
HOUSE BILL 420

A statement of intent is required for House Bill 420 because it adds authority for the Department of Health and Environmental Sciences to adopt rules setting sanitation standards for work camps and youth camps. The law presently allows the department to set standards for trailer courts and tourist campgrounds ensuring a level of sanitation adequate to protect public health. The need for similar uniform state standards for work camps and youth camps has become apparent, largely because such facilities are not uniformly regulated across the state and are subject to local standards ranging from stringent to minimal. Therefore, it is the intent of Senate Bill 420 to give the department authority to set sanitation standards for both work camps and youth camps which ensure adequate facilities exist for proper sewage disposal, require storage and disposal of solid waste in a manner adequate to prevent contamination and spread of disease, ensure that food is handled and food service maintained in a manner sufficient to prevent food-related illness, ensure that water supplies are adequate and uncontaminated, and define general housekeeping practices needed to ensure sanitation.

VISITORS' REGISTER

HOUSE

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COMMITTEE

BILL

420

Date _____

1-26

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

B+I

COMMITTEE

BILL

408

Date

1-26

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Morris Collickson	LIVINGSTON, MT	UNITED TRANSPORTATION UNION	X	
JAMES T. MULAR	Butte MT	BRO RLY CLERKS	X	
Sankuta	Glendive Mont.	B.R. Mt. Ry Eng	X	
LEETOR-RICHON	MISSOULA MT	UNITED TRANSPORTATION UNION	X	
I. Dowling	AK/KWA	Mont. RR Assn		X
Tom Hanging	Hope MT	BN Conductor	X	
Oliver Helchut	Glasgow Mont	BN Conductor	X	
Raymond West	Haure, Mont.	B.N. Conductor	X	
Jacques Harris	Whitefish, MT	B.N. Conductor	X	
Roger F. Hagaman	Whitefish, MT	B.N. Conductor	X	
Richard F. Hagaman	Montana	BN		
G. E. Albertson	Haure, Montana	BN Conductor	X	
Wayne Bueh	Helena MT	MPSC		
John Delano	Helena	MARRA		X
Claude Steak	St. Paul	BN		X
Lee Brand	Deer Lodge	Rcp Dist #28	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

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COMMITTEE

BILL

267

Date 1-26

SPONSOR

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

B + I

COMMITTEE

BILL

290

Date _____

1-26

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Brotherhood of Locomotive Engineers

MONTANA STATE LEGISLATIVE BOARD

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ALTERNATE SEC.-TREAS.

L. M. CHINSKE
503 PATTEE CANYON DR.
MISSOULA, MONTANA 59801

Jan. 24, 1983

House Business & Industry Committee

Mr. Chairman & Members:

I would like this submitted for the records that the Brotherhood of Locomotive Engineers is a proponent for House Bill 408.

It is our belief that with the trend of decontrol to the railroad industry and the findings of the Sunset Audit Commission on the State Public Service Commission to make them an advisory instead of compulsory authority on Railroad Safety & Sanitation, it is essential that all trains operating in Montana should have an occupied caboose.

With the average length of the symbol and secondary trains run in Montana at 5,300 to 7,300 feet long, with some a lot longer, it is impossible to see the entire train on curves from the head end. The Automatic Hot Box Detectors are not fail safe with snow blowing so it is very important to have a caboose with an attendant.

With a caboose that is radio equipped and has the required air gauges, the attendant can tell the engineer when the air brakes have released. This is an aid that helps in train operation. Also with a caboose on a train it is possible to safely back trains up and there is a brake valve on every caboose so that the attendant can stop the train.

The cabooses also carry extra knuckles, air hoses, tow chains, brass or journal bearings, lubricants, and jacks. It is not just a place for the rear Brakeman to ride.

We urge you to put a due pass to this Bill.

Thank you,



Calvin L. Burr, Chairman
Montana State Brotherhood of Locomotive
Engineers Legislative Board

WITNESS STATEMENT

Name ROGER F. WAGNER Committee On B & L
Address Box 795 Whitefish Date 1-26-83
Representing MYSELF Support X
Bill No. H.B. 408 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. EXCESSIVE LENGTHS OF TRAINS
2. WE OPERATE IN MT TERRAIN. NOT ABLE TO SEE THE BEGINNING & END OF TRAIN ACCOUNT OF CURVES, STANDING TIMBER. RIGHT AWAY CUTS ETC.
3. HAULING COMMODITIES ~~SEEN~~ CLASSIFIED AS HIGHLY FLAMABLE, EXPLOSIVES, AND POISON GAS - WIDE LOADS - OBSERVING TRAIN WILL POSSIBLY PREVENT DAMAGE TO PUBLIC SAFETY. CREW MEMBER + COMPANY PROPERTY
4. MAKE A BACKUP MOVEMENT OVER PUBLIC CROSSINGS
↓ AREAS WHERE ME + WOMEN + CHILDREN CAN BE ON TRACK -
- 5 - SAFETY IS THE FIRST IMPORTANCE IN THE DISCHARGE OF DUTY -

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

NAME:

Tom Hanning

DATE:

1-26-83

ADDRESS:

618 17th St. HAVER Mt.

PHONE:

265-6806

REPRESENTING WHOM?

Condr. B N Rippland - operating whitetish to Cbs~~United Transportation Union - Local 544~~

APPEARING ON WHICH PROPOSAL:

H/B - 408

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

Equipment and supplies on CabsA. Every cab ^{it should be} is Equipped w/ 1st Aid Kit & Fire Ext.1. Radio to Aid in Communicating with Eng, wayside stations, yards & other crew membersA. To Aid in Backing of Train - (X-rings etc)B. Length2 All cabs supplied w Equip necessary for Repairs1. Knuckles - Air Hoses - tools wrenches Hammers etcA. Knuckles 60-70 Lbs cant haul from Head EndB. Air Hoses & wrenches & required tools3. Cabs for Jasp w/ High Back Seats for safety & observation4. Markers & spotlights -5. Backup whistle6. Conductors valve - Aids in controlling movement of Train

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Both Forward & Reverse.7. Necessary Documents (waybills wheel Reports & Reporting)8. Flagging & Rear End protection Equip.1. Torpedos2. Fuses3. Flags

WITNESS STATEMENT

Name Raymond R. West Committee On HB 408
Address 1152 Cleveland Avenue Date 1-26-83
Haure, Montana
Representing myself Support X
Bill No. 408 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Employees and Public safety

1.

2. Mr. Chairman and Committee members I would like to present to this Committee my testimony on how we as Montanans would be effected if Railroads operated freight train without a Caboose

3.

4. How we make rolling inspections of other trains when meeting them.

How we inspect the rear end of freight trains

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Jaques R. Harris Committee On _____
 Address Liberty, N.H. Date _____
 Representing Myself as Backman Support X
 Bill No. AB 408 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Mountain Grade Operation (Weather - Air - Caravatore double track)
2. Power Brake Law - FRA Administered & requires certain air pressures with allowable variations be maintained. Requires accurate air gauge at rear of train.
3. Long - heavy trains and severe weather conditions make mountain grade operation even more hazardous
4. In case of emergency stop, possibly caused by derailment, adjacent track or tracks must be protected in both directions. With all members on head-end of train this immediate protection could not be provided thus endangering train and crew approaching from rear of disabled train on adjacent track.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

Caboose's are equiped with air guages tested every 90 days. For these reasons - all freight trains operating in Mont. should be required to have a caboose

Mr. Chairman & Committeemen:

My Name is Tom Hanning. I am a Proponent of House Bill # 408. I would like to relate to you how & why ^{occupied} a Cochoise ^{or East Train} is a very essential piece of railroad Equipment.

I operate Freight Trains as A Conductor from Houma mt. to Whitefish mt. over The Continental Divide & to Chsgon mont.

Every Cochoise is or should be Equipped with an Electrical System That provides power for 2 Radio, Markers, Interior Lites, & Spot Lites, on The rear of The Cochoise for Rear End Inspection of Tracks, crossings & Switches ^{1/2 mile} with The length of Trains of 5000 to 7000 feet & many up to 9000 ft. The operable Radio is a must. It is used to convey Information relating to The movement of said Train to provide Safety to The crew & to The public, by relaying Information to other crew members & wayside personell.

All Cochoises are Equipped with a Supply of Knuckles, Air Hoses & Gaskets & other Supplies to make ^{minor} repairs to keep These Trains moving, clearing public Xings to Allow a Normal flow of Traffic, School Busses, Emergency Vehicles Etc.

All Cochoises are Supplied with Tripodes, fuses, flags & Necessary Equip to provide protection to The rear of your Train & to other Trains on Adjacent Tracks as well as Tracks of O.R. & R.R.

A Cochose is Equipped with many Documents for Reporting to Company personell The Information required in case of Accidents & Injuries & The repair of Equipment. Documents Such as Train lists & way bills provide us with Info Such as lengths of Time & Locations of Cars in Trains. This would relate to Hazardous materials Such as radioactive Items - Chemicals, Acids etc so that we can rely this Info to The proper Authority. This would have to be known in case of Spill accidents to Aid in possible evacuation of Communities & to prevent Death or Injury to Thousands of people.

in Cochose → Probably The most Important piece of Equipment on any Cochose is The Cpals. It provides an observation post to Inspect a Train while it is moving to look for possible Defects - Smoke, Sparks, fires, shifted wheels etc. It is also used to receive warning Signals from Wayside personell Such as Section men, operators Agents or The Travelling public where Highways parallel The Tracks. And last but not least is The rear platform that is Equipped with a back up whistle, an Emergency Brake Valve to stop The movement if necessary & All to observe Track & related Equip.

Thank you,

T. A. Harris

WITNESS STATEMENT

Name Elmer H. Gilchrist Committee On _____
 Address 36 Kampfer Dr. Date 1-26-83
 Representing Myself as R.R. Employee Support X
 Bill No. H. B. 408 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Mr. Chairman Committee members I am Elmer Gilchrist from Glasgow Mont. and I have 32 + years of service with the railroad GN & BN.
2. The length of trains, average ~~4,000~~^{45,000} to ~~8,000~~^{7,000} feet with a few shorter but many are longer. Visual inspection from the head end or Engine only can not properly or safely see and inspect the whole train. Today we haul lumber - trucks combines on flat cars tanks of hazardous with many varied loads. Throughout the train I believe for the safety of the public in the towns we pass thru the caboose should be maintained on trains for the crew to safely disengage the train in case of a malfunction.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

Right of way fire if started by Engine or horn or sparks from train.

WITNESS STATEMENT

Name Morris W. Gullickson Committee On House B & I
Address 323 So. 6th Livingston, Mt. 59047 Date 26 Jan. 1983
Representing United Transportation Union Support XX
Bill No. H.B. 408 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Mr. Chairman and Committee members; For the record I am Morris
1. Gullickson, Representing the United Transportation Union.

I am a Conductor on the Burlington Northern Railroad, ~~and~~ have 31 years
experience on and about cabooses. The normal position of the seats in the
2. cupola of a caboose are facing forward so the employee in the caboose is
viewing the train at all times. There is a reason for this as the employees
on the engine of the train, wether a long or short train, have to observe the
3. the tracks ahead for signals and obstructions etc. They observe the train
behind only part of the time.

In this day and age the railroads are hauling some very dangerous loads,
such as chemicals, propane, combustibles, nucular waste, and shiftable loads.
4. The job of the employee in the caboose is to watch the train ahead for over
heated journal bearings, dragging equipment, shifting loads, or any other thing
that would cause danger or dammage to the railroad or private property. There
have been some very major accidents in the state and will continue. The caboose
and its occupant reduces the risk factor. This type of operation has been
developed and used by railroads for over 80 years. The main reason for this
is safety of operation.

I encourage you to pass this bill as written.

I will be glad to answer any other questions.

thank you,

Morris Gullickson

Itemize the main argument or points of your testimony. This will
assist the committee secretary with her minutes.

Statement of W. Claude Sheak

I am W. Claude Sheak, Assistant to Vice President - Labor Relations of Burlington Northern Railroad Company. My office address is 176 E. Fifth Street, St. Paul, Minnesota. I appreciate the opportunity to testify on House Bill Number 408.

I am a native of Livingston, Montana and have worked for Burlington Northern and the former Northern Pacific, a predecessor company since 1952. I served in the Operating Department as a Brakeman/Yardman in 1954 and was subsequently promoted to Conductor. I retain my seniority in those crafts on the Rocky Mountain Seniority District of Burlington Northern Railroad. During my period of service as Brakeman/Yardman and Conductor I also served for a period as local grievance committee chairman of Lodge No. 295 of the former Brotherhood of Railroad Trainmen and as Secretary of the BRT General Grievance Committee on the Northern Pacific.

I was promoted to the position of Trainmaster in 1967 and later to Labor Relations Assistant in St. Paul, Minnesota on the Northern Pacific.

In my present capacity, I am the senior designated appeal officer for claims and grievances for operating crafts on Burlington Northern Railroad including those operating craft groups employed in the State of Montana.

I am fully familiar with the rules, agreements, practices and interpretations thereof as they apply to these crafts including those relating to cabooses. Moreover, because of my background as railroad brakeman and conductor in the State of Montana, operating in the territories between Forsyth, Livingston and Helena and Butte, Montana, I have personal experience and insight into the use of cabooses in the state as well as elsewhere in the railroad industry.

The question as to whether a caboose is needed on trains cannot be answered with a simple yes or no. On some trains cabooses are necessary to insure safe operation. On others they may be desirable to make switching operations more efficient. But on many trains cabooses contribute nothing more than extra costs which are borne by our customers.

In the state of Montana, most of Burlington Northern's mainline trackage is governed by Centralized Traffic Control and Automatic Block Signal systems. A train operating on these lines receives its protection by reliable, fail-safe signaling that obviates the need for caboose flagmen. On unsignalled branch lines, usually only one train is permitted to operate, so there is no need for protection from other trains.

The United Transportation Union -- the labor organization that represents brakemen and conductors on most railroads -- agreed last October to follow the recommendation of Presidential Emergency Board Number 195 appointed by President Reagan, providing for the elimination of cabooses in all classes of service. I will submit a copy of the formal agreement for the record. The UTU, which has been outspoken on railroad safety matters, assented to the elimination of cabooses on trains which will be designated through local labor-management negotiation. The UTU agreement also provides that in those instances wherein local negotiations fail to resolve a proposal to remove a caboose from service, an arbitrator will rule.

Guidelines from the relevant article of the 1982 agreement are as follows:

The parties to this Agreement adopt the recommendations of Emergency Board No. 195 that the elimination of cabooses should be an on-going national program and that this program can be most effectively implemented by agreements negotiated on the local properties by the representatives of the carriers and the organization most intimately acquainted with the complexities of individual situations.

In determining whether cabooses are to be eliminated, the following factors shall be considered:

- (a) safety of employees
- " (b) operating safety, including train lengths

(c) effect on employees' duties and responsibilities resulting from working without a caboose

(d) availability of safe, stationary and comfortable seating arrangements for all employees on the engine consist

(e) availability of adequate storage space in the engine consist for employees' gear and work equipment."

Bear in mind that these are the provisions of a mutual agreement between labor and management. The provisions of House Bill Number 408 would constitute an intrusion of government into a successful collective bargaining contract -- a contract which states explicitly that the elimination of cabooses should be an "...on-going national program..." and "...that this program can be most effectively implemented by agreements negotiated on the local properties..." by the parties. Emphasis added.

We can think of no interest that would be served by intervention of the state in a matter where there is no dispute, no danger to the public, nor any threat to public or private property. The process of negotiation outlined above should leave no doubt as to the safety interests of our employees. The one, certain result of a caboose requirement would be a lost opportunity: a chance to keep freight rates at their absolute minimum.

I sincerely believe that the parties most familiar with the railroad operation and with the needs of the employees can best decide on the need for cabooses according to "...the complexities of individual situations" without the need for legislation.

WITNESS STATEMENT

Name Stanley R. Hill Committee On B&I
Address Box 20007 Date 1/26/82
Representing 1st Bank - West Billings Support ✓
Bill No. AB 267 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Transfer helps protect buyer in an orderly transfer of ownership.
2. Taxes are collected and paid up to date
3. Rate of interest on assumption remains the same from seller to new buyer.
4. Cost of making installment loan \$67.50 Financial institution suffers a loss of 52.50 in processing a transfer of equity. If this bill passes this would help to keep this action of financing available to consumers and help prevent repossession to these same consumers.
5. Will also help to keep more funding available to mobile home dealers for mobile home contract purchases

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Tom Caruthers Committee On B + I
 Address Helena Date 1-26-83
 Representing 1st BANK Helena Support yes
 Bill No. HB 267 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. This bill mainly deals with mobile home sales and contracts.
2. The last few years the industry has had difficulties in finding an outlet for them financing as more + more financial institutions are dropping out of this business.
3. because of cost & profits of this line.

If this bill will help to keep some of the existing banks financing in the business by reducing cost it should be supported.

The existing bill has been on the books since the 1950's and hasn't kept up with the times or the costs of doing business.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

MONTANA BANKERS ASSOCIATION

Testimony on House Bill 267

House Business and Industry Committee

9:00 a.m.
Room 420

Wednesday
January 26, 1983

Mr. Chairman and Members of the Committee:

My name is Stan Hill. I am vice president of First Bank-West Billings, Billings Montana. I am also chairman of the Montana Bankers Association Consumer Lending Committee and in their behalf, we thank you for the opportunity to speak in support of House Bill 267.

We feel it is necessary to raise the transfer of equity fee from \$15.00 to \$75.00. When we transfer the equity in a mobile home to a new owner, we perform several functions. 1. We do a credit check on the proposed owner to help protect the seller from a poor credit risk. 2. We help transfer the title from seller to buyer so that the buyer has an orderly transfer of ownership. 3. We collect and pay the taxes up to date so the buyer isn't saddled with a delinquent tax situation. 4. The loan is transferred to the new buyer at the same rate of interest that the seller had on the loan. In doing these steps, we incur the same costs which are incurred in processing a new loan transaction.

In February of 1982, The Federal Reserve Functional Cost Analysis indicated the cost of making an installment loan was \$67.50 or a net loss to the financial institution of \$52.50 in a transfer of equity.

We urge the passage of HB 267 to raise the transfer of equity fee so that we can not only cover our costs but continue to offer this option of financing to the consumers.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 11, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order on Friday, March 11, 1983 in Room 410 of the State Capitol Building by Vice Chairman Reed Marbut in the absence of the chairman.

ROLL CALL: Senators Marbut, Himsl, and Christiaens were present when the roll was taken. Senator Hazelbaker sat with the committee to make up the quorum. Senators Norman and Jacobson arrived late, and Senators Hager and Stephens were excused. Woody Wright, staff attorney, was also present.

Many, many visitors were also in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 337: Representative Jerry Metcalf of House District 31, chief sponsor of HB 337, gave a brief resume of the bill. This bill is a act to generally revise and clarify the laws relating to the board of pharmacists; changing the name of the board to the board of pharmacy; amending the provisions on professional education; changing the terms of members of the board and providing a transition to the longer term; establishing qualifications for the public members of the board; clarifying the provisions on what constitutes a violation of pharmacy law relating to disciplinary action against pharmacists; removing the requirement for a reexamination fee.

Warren Amole, executive secretary of the board of pharmacists, stood in support of the bill. Mr. Amole handed in written testimony to the committee for their review. See exhibit 1.

Frank Davis, Executive director of the board of pharmacists, stood in support of the bill. Mr. Davis stated that this is a very good bill which is definitely needed and costs no money.

With no further proponents, the vice chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Norman asked if this bill would conflict with the federal rules. This would not be the case.

Senator Himsl asked the board members if they would anticipate any problem with longer terms for its members. Mr. Amole stated that the present board was polled to see their reaction to this and all felt that it would be a very good idea.

PUBLIC HEALTH
PAGE TWO
MARCH 11, 1983

Mr. Amole pointed out that the repealer in this bill is nothing more than repealing an obsolete part of the law which is no longer needed or used.

Representative Metcalf closed. He asked the Committee for their concurrence on this bill.

CONSIDERATION OF HOUSE BILL 420: Representative Bob Dozier is the chief sponsor of House Bill 420. He introduced the bill at the request of the Department of Health and Environmental Sciences. This bill is an act to generally revise and clarify the laws relating to the tourist campgrounds and trailer courts; to exclude from regulation platted and filed trailer courts served by public water supply and sewage disposal systems; to provide for the regulation of work camps and youth camps.

James Hill, representing the Department of Health and Environmental Sciences, stood in support of the bill. Mr. Hill handed in two pages of information for the Committee to review. See exhibit 2.

Doug Olson, attorney for the Montana Seniors' Advocacy Assistance, stood in support of the Bill. He stated that this a much need bill and a very good piece of legislation.

With no further proponents, the vice chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Hims1 asked if this would affect "squatters" that just park on one's land. This bill does not affect "squatters".

The present fee for a licese is \$20.

Representative Dozier closed. He stated that it is the job of the Department of Health to protect the health and safety of the public and this bill would do that. It would look after the water and sewage disposal.

CONSIDERATION OF HOUSE BILL 604: Representative Norm Wallin of House District 76, the chief sponsor of House Bill 604, gave a brief resume of the bill. This bill is an act to provide that a patient must be informed of his rights.

PUBLIC HEALTH
PAGE THREE
MARCH 11, 1983

Doug Olson, representing the Montana Seniors' Advocacy Assistance, stood in support of the bill. Mr. Olson handed into the Committee a letter with several facts and also one sheet of amendments. He also handed in "Patients' Rights" according to federal law. See exhibit 3 and 4.

Lenore Taliaferro, of the Montana Seniors' Advocacy Assistance, stood in support of the bill and offered her support for the proposed amendments.

Shirley Thennis, lobbyist for the Montana Nurses' Association, stood in support of the bill. She stated that her group has always believed in doing this and would continue to do so.

Bill Leary, representing the Montana Hospital Association, stood in support of the bill. He stated that perhaps the Committee would want to change the word "he" or "his" in the bill to read "their" before it reached the floor of the Senate.

With no further proponents, the meeting was opened to the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Christiaens asked about the federal rights of patients. The federal rights is considerably more extensive that this bill includes.

Senator Hims1 also asked about the federal law and rights.

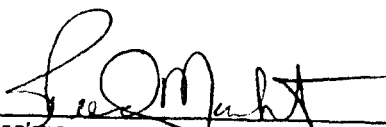
Senator Marbut asked Mr. Leary to respond to the amendments. Mr. Leary stated that he was against the penalty clause.

Representative Wallin closed. He stated that this is a much needed bill for the protection of patients in the hospitals, and asked the Committee for their concurrence in this matter.

DISPOSITION OF HOUSE BILL 337: A motion was made by Senator Christiaens that House Bill 337 receive a BE CONCURRED IN recommendation from the Committee. Motion carried unanimously. Senator Hazelbaker will carry this bill on the floor of the Senate.

ANNOUNCEMENTS: The next meeting of the Public Health Committee will be held on Monday, March 14, 1983 in Room 410 of the State Capitol Building in Helena.

ADJOURN: With no further business the meeting was adjourned.


SENATOR REED MARBUT, VICE CHAIRMAN

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/11/8

[illegible]

SENATE

COMMITTEE

BILL

VISITORS' REGISTER

DATE

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)

SUPPORT

OPPOSE

Frank J. Davis

MT. ST. PHARM. ASSN

#337

✓

Shirley A. Morris

Montana Nurses Assn.

#604

✓

Judy Hill

DRES

HB 420

✓

William E. LEARY

Montana Hospital Assoc.

HB 604

✓

Douglas B. Olson

mt. Seniors Assoc. Ast

HB 604

✓

Lenore F. Jahnke

Long Term Care Ombudsman

HB 604

✓

Warren Amole

Bd of Pharmacists

HB 337

✓

Fred Swanson

self

—

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

BOARD OF PHARMACISTS

2 & 1/2



TED SCHWINDEN, GOVERNOR

1424 9TH AVENUE
HELENA, MONTANA 59620
(406)449-3737

STATE OF MONTANA

WARREN AMOLE, EXECUTIVE SECRETARY

510 1ST AVE. NO. SUITE 100

GREAT FALLS, MT 59401

(406)761-5131

Date: March 11, 1983

To: Senator Tom Hager, Chairman, Public Health, Welfare and Safety, and Members

From: Warren R. Amole, jr., R.Ph., Executive Secretary

A handwritten signature in dark ink, appearing to read "Warren R. Amole, jr.", written over the typed name.

Re: House Bill 337

This Bill is an act to revise and clarify certain statutes governing the profession of pharmacy; i.e.

1. change the name of the Board from Board of Pharmacists to Board of Pharmacy. The Board is involved with all aspects of the profession, not just pharmacists. Montana has been the only state to designate this Board as the Board of Pharmacists.

2. set standards for both pharmacist members and public members of the Board.

3. change the term of the members from 3 to 5 years so that only one member will be replaced each year assuring continuity and a more efficient and knowledgeable Board.

4. state the requirements for examination to become licenced as a pharmacist and gives the Board the authority to approve accredited pharmacy degree programs. (Note Statement of Intent for this Bill)

5. Define the Pharmacy Law as it applies to revocation of licenses of interns, pharmacist, and pharmacies.

The Board of Pharmacists recommends the passage of this Bill.

NAME :

DATE: 11 Mar 83

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

INFORMATION RELATIVE TO HB BILL NO. 420

Section 1 50-52-101(1) The definition of "Board" is no longer needed as the term is not used in the statute or in the rules adopted under the statute.

(1) "campground" formerly "tourist campground", redefined for the sake of clarity and to include cabins. Rustic cabins often constitute a significant portion of a campground. Although such cabins could feasibly be reviewed and licensed as motel units under the public accommodations licensing statute (50-51 MCA), the rules relating to motels are relatively restrictive. Licensure of rustic cabins as campgrounds would allow for less restrictive requirements and would eliminate the need for dual licensure of a facility which offered camping spaces and cabins.

(3) "Establishment" is defined for the sake of clarity, to avoid the need to reference trailer court, campground, youth camps and work camps throughout the act.

(4) "Parcel of Land", a term used in the definition of trailer court and in the proposed definition of campground has been interpreted in different ways by various individuals. The definition proposed is a workable interpretation of the term.

(5) "Person" is redefined merely to reflect the amendments proposed in this bill.

(6) "Political subdivision" is defined because it is a new term used in Section 50-52-103.

(7) "Trailer Court" is redefined to exempt from review and licensure certain trailer spaces which, because they are under the control of other agencies, should not be subject to review and licensure under this act.

(8) "Work Camp" is defined to enable the department to require review and licensure of housing provided by a company for its workers, in the interest of controlling improper sewage disposal practices, improper solid waste storage and disposal practices, and to provide the worker and his family some assurance that the housing provided meets a basic standard of sanitation.

Work camps are generally constructed when there is a short-term need for a large number of workers and little permanent housing is available. Most often they resemble trailer courts or campgrounds in design, but cannot be reviewed and licensed as such because they are not available to the public.

(9) "Youth Camp" is defined to enable the department to require review and licensure of camps which are made available to the general public in the interest of insuring that a person or group utilizing such a camp is not subjected to unreasonable health hazards due to improper construction or operation of the camp.

Such camps are in many cases inspected by local health departments upon request by the camp operator; however, in many other cases the camps

2.

operate with no health department involvement. Because there are no set standards to apply, the requirements imposed on those camps which are inspected may differ from county to county.

The proposed legislation would allow for uniform standards applied through routine inspections.

- Section 2 50-52-102 extends the department's rulemaking authority to work camps and youth camps.
- Section 3 50-52-103 extends the requirement to obtain a license to work camps and youth camps and exempts from licensure campgrounds owned by the state or a political subdivision.
- Section 4 50-52-105 is amended to reflect the addition of work camps and youth camps.
- Section 5 (New) is added to make it clear that the department may seek injunction if necessary to insure compliance with the act or rules adopted under the act.
- Section 6 50-52-301 is amended to reflect the addition of work camps and youth camps.

NAME: Douglas B. Olson

DATE: 3-11-83

ADDRESS: P.O. Box 232, Helena, Mt 59620

PHONE: 449-4676

REPRESENTING WHOM? Mt. Seniors' Advoc. Asst.

APPEARING ON WHICH PROPOSAL: HB 604

DO YOU: SUPPORT? ✓ AMEND? yes OPPOSE?

COMMENTS: see written testimony.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MONTANA SENIORS' ADVOCACY ASSISTANCE

P.O. Box 232 • Capitol Station • Helena, Montana 59620
(406) 449-4676 (Helena) • 1-800-332-2272 (Toll-free)

DOUGLAS B. OLSON, Attorney
Elderly Legal Services Developer

LENORE F. TALIAFERRO
Montana State Nursing Home Ombudsman

March 11, 1983

Senators
Senate Public Health Committee
48th Legislative Session
State Capitol
Helena, Montana 59620

re: House Bill 604

Dear Senators:

Montana Seniors' Advocacy Assistance (MSAA) serves to assist senior citizens develop and clarify their institutional and legal rights, especially those relating to long-term care facilities. As the attorney for MSAA, I am appearing today before your committee in support of the principles reflected in House Bill 604. We would have preferred to have had HB 604 come to your committee in a form somewhat similar to that which it was initially introduced in-- that is, with some of the rights a patient has being clearly articulated in the statute.

HB 604 as it passed the House does not specify any particular rights but rather leaves each hospital or long-term care facility to establish such rights. Under present federal regulations applicable to skilled nursing facilities (SNFs) which are found in Title 42 Code of Federal Regulations (CFR) Section 405.1121(k), such facilities must establish,

"...written policies regarding the rights and responsibilities of patients and, through (the facility's administrator), is responsible for development of, and adherence to, procedures implementing such policies."

In addition, intermediate care (nursing) facilities must also adopt written policies and procedures respecting their residents' rights pursuant to 42 CFR 442.311.

The above cited federal regulations apply to those skilled and intermediate care facilities which participate in the medicare and medicaid programs but not all Montana facilities do. Under Montana licensure rules adopted by the Montana Department of Health and Environmental Sciences (DHES), all nursing facilities must meet these federal regulations in order to be licensed.

Letter to Senate Public Health Comm.
re: House Bill 604
from: Mt. Seniors' Advoc. Asst
Page 2
March 11, 1983

Administrative Rules of Montana (ARM) rule 16.32.360 states:

"MINIMUM STANDARDS FOR A SKILLED AND SKILLED/
INTERMEDIATE CARE FACILITY--GENERAL REQUIRE-
MENTS. A skilled nursing care facility shall
comply with the Conditions of Participation for
Skilled Nursing Facilities as set forth in
42 CFR 405, Subpart K. An intermediate care
facility shall comply with the requirements
set forth in 42 CFR 442, Subparts E and F. A
copy of the cited rules is available at the
department."

Copies of the above cited federal regulations governing
nursing homes are attached for your information.

You may ask, why is this bill necessary if all nursing homes
are now required by federal regulations or by Montana licensure
rules (16.32.360) to have patients' or residents' rights?
Primarily, because many senior citizens also reside in what
are known as "personal care homes" and these residents do not
have any guaranteed rights recognized for them. Personal care
homes are "long-term care facilities" under Montana law,
50-5-101(20), MCA, and the persons who reside in these facilities
should have at least the same rights recognized for them.

Under House Bill 604 even in the form that it passed the House,
personal care homes would be required to provide their residents
with a list of their rights similar to those that nursing homes
are required to do under present federal and state regulations
and rules.

MSAA would propose a few amendments to HB 604 which we believe
would improve it. We would urge your Committee to amend this
bill to require all hospitals and long-term care facilities to
post in a conspicuous place in their facilities a list of the
patients' or residents' bill of rights they have established and
also the name, address and telephone number of the state long-term
care ombudsman designated for Montana residents by the State Agency
on Aging. This is so that patient's can readily ascertain their
rights and can call the long-term care ombudsman for assistance if
they are having problems.

Letter to Senate Public Health Comm.
re: House Bill 604
from: Mt. Seniors' Advoc. Asst.
page 3
March 11, 1983

The other amendment that MSAA would like the Committee to consider relates to imposing a small sanction against those facilities which do not comply with HB 604. In the present legislation, there is no sanction or incentive for any facility to comply with its requirements. MSAA would suggest that an action could be brought in court and a fine of up to \$250 or an injunction issued or both be imposed for failure to comply with HB 604.

The specific amendments that MSAA believes will accomplish these objectives are attached to this letter for your consideration.

Having to leave one's home and go into a hospital or long-term care facility is often a demeaning experience for a person. Montana's citizens need legislation such as HB 604 to assure them that by entering these facilities they are not required to give up their basic fundamental civil rights such as the right to be treated with dignity and to retain a limited degree of privacy. MSAA sincerely hopes that you will give favorable consideration to HB 604 and will accept the amendments we have offered.

Sincerely,



Douglas B. Olson
Attorney

Montana Seniors' Advocacy
Assistance

Attachments.

ATTACHMENT

Letter to Senate Public Health Comm.

From: Montana Seniors' Advocacy Assistance
re: House Bill 604

Subject: Copy of Title 42 Code of Federal Regulations
Section 405.1121(k)
Conditions of Participation for
skilled nursing facilities
(k) Patient's rights.

(k) *Standard: Patients' rights.* The governing body of the facility establishes written policies regarding the rights and responsibilities of patients and, through the administrator, is responsible for development of, and adherence to, procedures implementing such policies. These policies and procedures are made available to patients, to any guardians, next of kin, sponsoring agency(ies), or representative payees selected pursuant to section 205(j) of the Social Security Act, and Subpart Q of 20 CFR Part 404, and to the public. The staff of the facility is trained and involved in the implementation of these policies and procedures. These patients' rights policies and procedures ensure that, at least, each patient admitted to the facility:

- (1) Is fully informed, as evidenced by the patient's written acknowledgment, prior to or at the time of admission and during stay, of these rights and of all rules and regulations governing patient conduct and responsibilities;
- (2) Is fully informed, prior to or at the time of admission and during stay, of services available in the facility, and of related charges including any charges for services not covered under titles XVIII or XIX of the Social Security Act, or not covered by the facility's basic per diem rate;
- (3) Is fully informed, by a physician, of his medical condition unless medically contraindicated (as documented, by a physician, in his medical record), and is afforded the opportunity to participate in the planning of his medical

treatment and to refuse to participate in experimental research;

(4) Is transferred or discharged only for medical reasons, or for his welfare or that of other patients, or for non-payment of his stay (except as prohibited by titles XVIII or XIX of the Social Security Act), and is given reasonable advance notice to ensure orderly transfer or discharge, and such actions are documented in his medical record;

(5) Is encouraged and assisted, throughout his period of stay, to exercise his rights as a patient and as a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and/or to outside representatives of his choice, free from restraint, interference, coercion, discrimination, or reprisal;

(6) May manage his personal financial affairs, or is given at least a quarterly accounting of financial transactions made on his behalf; should the facility accept his written delegation of this responsibility to the facility for any period of time in conformance with State law;

(7) Is free from mental and physical abuse, and free from chemical and (except in emergencies) physical restraints except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the patient from injury to himself or to others;

(8) Is assured confidential treatment of his personal and medical records, and may approve or refuse their release to any individual outside the facility, except, in case of his transfer to another health care institution, or as required by law or third-party payment contract;

(9) Is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs;

(10) Is not required to perform services for the facility that are not included for therapeutic purposes in his plan of care;

(11) May associate and communicate privately with persons of his choice, and send and receive his personal mail unopened, unless medically contraindi-

cated (as documented by his physician in his medical record);

(12) May meet with, and participate in activities of, social, religious, and community groups at his discretion, unless medically contraindicated (as documented by his physician in his medical record);

(13) May retain and use his personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients, and unless medically contraindicated (as documented by his physician in his medical record); and

(14) If married, is assured privacy for visits by his/her spouse; if both are inpatients in the facility, they are permitted to share a room, unless medically contraindicated (as documented by the attending physician in the medical record).

All rights and responsibilities specified in paragraphs (k)(1) through (k)(14) of this section--as they pertain to (i) a patient adjudicated incompetent in accordance with State law, (ii) a patient who is found, by his physician, to be medically incapable of understanding these rights, or (iii) a patient who exhibits a communication barrier--devolve to such patient's guardian, next of kin, sponsoring agency(ies), or representative payee (except when the facility itself is representative payee) selected pursuant to section 205(j) of the Social Security Act and Subpart Q of 20 CFR Part 404.

ATTACHMENT

Letter to Senate Public Health Committee
From: Montana Seniors' Advocacy Assistance
re: House Bill 604

Subject: Copy of Title 42 Code of Federal Regulations
Section 442.311
Resident's Bill of Rights for
intermediate care nursing facilities

**§ 442.311 Written policies and procedures:
Residents' bill of rights.**

The ICF must have written policies and procedures that insure the following rights for each resident:

(a) *Information.* (1) Each resident must be fully informed, before or at the time of admission, of his rights and responsibilities and of all rules governing resident conduct.

(2) If the ICF amends its policies on residents' rights and responsibilities and its rules governing conduct, each resident in the ICF at that time must be informed.

(3) Each resident must acknowledge in writing receipt of the information and any amendments to it.

(4) Each resident must be fully informed in writing of all services available in the ICF and of the charges for these services including any charges for services not paid for by Medicaid or not included in the ICF's basic rate per day. The ICF must provide this information either before or at the time of admission and on a continuing basis as changes occur in services or charges during the resident's stay.

(b) *Medical condition and treatment.* (1) Each resident must—

(i) Be fully informed by a physician of his health and medical condition unless the physician decides that in-

forming the resident is medically contraindicated;

(ii) Be given the opportunity to participate in planning his total care and medical treatment;

(iii) Be given the opportunity to refuse treatment; and

(iv) Give informed, written consent before participating in experimental research.

(2) If the physician decides that informing the resident of his health and medical condition is medically contraindicated, the physician must document this decision in the resident's record.

(c) *Transfer and discharge.* Each resident must be transferred or discharged only for—

(1) Medical reasons;

(2) His welfare or that of the other residents; or

(3) Nonpayment except as prohibited by the Medicaid program.

(d) *Exercising rights.* Each resident must be—

(1) Encouraged and assisted to exercise his rights as a resident of the ICF and as a citizen; and

(2) Allowed to submit complaints or recommendations concerning the policies and services of the ICF to staff or to outside representatives of the resident's choice or both, free from restraint, interference, coercion, discrimination, or reprisal.

(e) *Financial affairs.* Each resident must be allowed to manage his personal financial affairs. If a resident requests assistance from the ICF in managing his personal financial affairs—

(1) The request must be in writing; and

(2) The ICF must comply with the recordkeeping requirements of § 442.320.

(f) *Freedom from abuse and restraints.* (1) Each resident must be free from mental and physical abuse.

(2) Each resident must be free from chemical and physical restraints unless the restraints are—

(i) Authorized by a physician in writing for a specified period of time; or

(ii) Used in an emergency under the following conditions:

(A) The use is necessary to protect the resident from injuring himself or others.

(B) The use is authorized by a professional staff member identified in the written policies and procedures of the facility as having the authority to do so.

(C) The use is reported promptly to the resident's physician by that staff member.

(g) *Privacy.* (1) Each resident must be treated with consideration, respect, and full recognition of his or her dignity and individuality.

(2) Each resident must be given privacy during treatment and care of personal needs.

(3) Each resident's records, including information in an automatic data bank, must be treated confidentially.

(4) Each resident must give written consent before the ICF may release information from his record to someone not otherwise authorized by law to receive it.

(5) A married resident must be given privacy during visits by his spouse.

(6) If both husband and wife are residents of the ICF, they must be permitted to share a room.

(h) *Work.* No resident may be required to perform services for the ICF.

(i) *Freedom of association and correspondence.* Each resident must be allowed to—

(1) Communicate, associate, and meet privately with individuals of his choice, unless this infringes on the rights of another resident; and

(2) Send and receive personal mail unopened.

(j) *Activities.* Each resident must be allowed to participate in social, religious, and community group activities.

(k) *Personal possessions.* Each resident must be allowed to retain and use his personal possessions and clothing as space permits.

To: Senate Public Health Committee
From: Montana Seniors' Advocacy Assistance
Subject: Proposed Amendments to House Bill 604
Date: March 11, 1983

1. Line 2, Page 2
Following: "patient."
Insert: "Each hospital and long-term care facility shall post in a conspicuous place in its facility a list of the policies it has adopted which concern the rights of its patients and the name, address and telephone number of the state long-term care ombudsman which has been designated pursuant to 42 USC 3027(a)(12)."
2. Amend Title
Line 9, Page 1
Following: "REASONS."
Insert: "AND PROVIDING SANCTIONS FOR FAILURE TO COMPLY."
3. Line 5, Page 4
Following: "explanation:"
Insert new section. "SECTION 3. SANCTIONS FOR NON-COMPLIANCE. (1). EACH HOSPITAL OR LONG-TERM CARE FACILITY WHICH FAILS TO COMPLY WITH THE REQUIREMENTS OF(SUBSECTION 2 OF THIS ACT) SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT TO EXCEED \$250, AN INJUNCTION, OR BOTH. (2) ANY PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE STATE GENERAL FUND."

D. Patients' Rights

1. A Federal Patient's Bill of Rights

A patient does not give up any of his/her civil rights when entering a nursing home. However, because of his/her physical and/or mental condition, the patient is in a particularly vulnerable position.

To insure that the nursing home patient retains his/her rights, the Federal government has promulgated a Patient's Bill of Rights which applies to all Medicare and Medicaid homes. Skilled nursing facilities and intermediate care facilities each have their own Patient's Bill of Rights, which vary only slightly. The regulations require that the nursing home inform patients of their rights and establish a procedure and train staff to implement the Bill.

The Federal Patient's Bill of Rights includes:

- the right to know and make decisions about one's treatment.
- the right to have privacy, to receive and send mail unopened and to confer with persons or groups of one's choice
- the right to voice grievances without fear of reprisals
- the right to manage one's own finances or be given a quarterly accounting of the financial transactions made on one's behalf by the home if the patient has delegated that responsibility in writing
- the right not to be transferred except for medical reasons, a patient's own welfare or that of other patients, or for non-payment
- the right to be fully informed of services available and of related charges and fees
- the right to be fully informed of one's medical condition unless medically contraindicated
- the right to be free from mental and physical abuse, and from chemical and physical restraints (with specified exceptions)

- . the right to be treated with consideration, respect and dignity
- . the right to retain and use personal clothing and possessions as space permits
- . the right not to perform services for the home
- . the right to have marital privacy

2. State Patient's Bill of Rights

Since the Federal Patient's Bill of Rights covers only Medicare and Medicaid participants, states are beginning to enact similar legislation so that all patients are covered. Several state bills are almost identical to the Federal bill. Some include additional provisions such as:

- . the right to have the name, address and phone number of the patient's physician at his/her bedside
- . the right to receive from staff a reasonable response to one's requests
- . the right to have staff knock before entering one's room unless the patient is asleep

A copy of your state's Bill of Rights for Nursing Home residents should be inserted in this manual after this page.

If your state does not have a Patients Bill of Rights, this becomes an obvious place for issue advocacy and legislature change.

3. Enforcement of Patient's Bill of Rights

The idea of Patient's Bills of Rights is good. The catch, though, is that there are no enforcement mechanisms at the Federal level. Some states have patient's bills of rights which include enforcement mechanisms, however, they are not presently carried out. The patient is left to assert his/her own rights, perhaps through costly, time consuming litigation. This omission is critical, since the protection of rights in the nursing home situation is essentially meaningless unless quick and inexpensive procedures for enforcing them are also provided.

Nursing home consumer advocates should press for legislation which would realistically implement the Patient's Bill of Rights. One approach might include an immediate, simplified in-home hearing procedure and a system of fines for violations.

Citizen volunteer nursing home ombudsman programs, as discussed in the remaining sections of this manual, may be the best answers for injecting life into the proper requirements of Patient's Bills of Rights.

E. The Nursing Home Ombudsman Developmental Specialist Program

The Administration on Aging has recently taken a unique and exciting approach to nursing home reform: it has developed a nursing home ombudsman program.

1. Background of the Program

Briefly, the history of the AoA program is: In 1971, Congress made available funds for the establishment of five nursing home ombudsman demonstration projects. In 1972, the Health Services and Mental Health Administration, which has worked to design models for nursing home ombudsman units, awarded five contracts. Four

STANDING COMMITTEE REPORT

..... MARCH 11, 1983

MR. **PRESIDENT:**

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **337**,

METCALF **(HAZELBAKER)**

Respectfully report as follows: That **HOUSE** Bill No. **337**,

~~DOXWASSXX~~ BE CONCURRED IN

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

MARCH 18, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Friday, March 18, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Woody Wright, staff attorney was also present.

There were also some visitors in attendance.

CONSIDERATION OF HOUSE BILL 513: Representative Bob Pavlovich of House District 86, the chief sponsor of House Bill 513, gave a brief resume of the bill. This bill is an act providing for a fee for late renewal of a chiropractor license; clarifying that continuing education programs must be approved by the Board of Chiropractors; and providing an immediate effective date.

Dr. Carrol Albert, president of the Board of Chiropractors, stood in support of the bill. He stated that HB 513 is a request of the Board to provide for a late renewal fee. At the present time, 40% of the current licensees renew late. This results in additional work load which involves sending out a third renewal notice, checking continuing education credits, and record keeping. The Board feels that with the additional work required for a late renewal that these licensees should pay a penalty if they have not renewed within 30 days of the expiration date of their license which is September 1st of each year. At a proposed fee of \$10, this would raise \$400 per year at this time and would offset the costs associated with the additional work load.

With no further proponents, the chairman called on the opponents. Hearing none the meeting was opened to a question and answer period from the Committee.

Representative Pavlovich closed. He stated that he hoped that the Committee would give this bill favorable consideration.

DISPOSITION OF HOUSE BILL 513: A motion was made by Senator Jacobson that HB 513 receive a recommendation of BE CONCURRED IN from the committee. Motion carried unanimously. Senator Jacobson will carry this bill on the floor.

PUBLIC HEALTH
PAGE TWO
MARCH 18, 1983

CONSIDERATION OF HOUSE BILL 671: Representative Red Menahan, of House District 90, the chief sponsor of HB 671, gave a brief resume of the bill. This bill is an act to clarify which subjects may be included in chiropractic examinations and to make it discretionary for the Board of Chiropractors to license, without administering a clinical proficiency examination, an applicant holding a valid certificate from the National Board of Chiropractic Examiners.

Dr. Carrol Albert, president of the Board of Chiropractors, stood in support of the bill. Dr. Albert stated that this would bring the law up to date. This bill was requested by the Board of Chiropractors to revise the laws pertaining to chiropractic examinations. Dr. Albert turned in written testimony to the Committee for their review. See exhibit 1.

There were no further proponents. The Chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Hager asked how many licensed chiropractors there are in the state at the present time. There are approximately 230 licensed chiropractors in the state at the present time.

Senator Christiaens asked the sponsor if he had any trouble with the bill being amended on line 18 to change "may" to "shall". The sponsor had no objection to this.

The closest Chiropractic College is in Portland. There is none in Montana at the present time.

Representative Menahan closed.

DISPOSITION OF HOUSE BILL 671: A motion was made by Senator Norman that HB 671 receive a BE CONCURRED IN recommendation from the Committee. Motion carried unanimously. Senator Jacobson will carry this bill on the floor of the Senate.

CONSIDERATION OF HOUSE BILL 687: Representative Red Menahan of House District 90, the sponsor of House Bill 687, gave a brief resume of the bill. This bill is an act to amend the laws relating to the application, and examination for a license to practice medicine.

PUBLIC HEALTH
PAGE THREE
MARCH 18, 1983

Jerome Loendorf, representing the Montana Medical Association stood in support of the bill. He urged the Committee to give this bill a BE CONCURRED IN recommendation.

With no further proponents, the Chairman called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Representative Menahan closed.

DISPOSITION OF HOUSE BILL 687: A motion was made by Senator Norman that HB 687 receive a BE CONCURRED IN recommendation from the Committee. Motion carried unanimously. Senator Norman will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 663: Senator Esther Bengtson of House District 59, the sponsor of House Bill 663, gave a brief resume of the bill. This bill is an act to grant the Department of Social and Rehabilitation Services authority to administer the state plan on aging, to coordinate services to the aged, and to establish or redesignate planning and service areas and providing an immediate effective date.

Representative Bengtson stated that an interim study had been made of the area aging councils and should be endorsed by the state. She stated that this is an attempt to embrace area agency councils.

Jane Anderson, representing the Area V Agency on Aging, stood in support of the bill. She stated that senior citizens are the greatest people in the world to deal with and work for and if we can improve the quality of life and keep them out of nursing homes as long as possible, that is the best gift Montana can give her senior citizens.

Walter Taylor, representing the senior citizens of Montana, stood in support of the bill.

Ben Briscoe of Great Falls, stood in support of the bill

Mary Uber of Billings stood in support of the bill.

Ray Menahan of Kalispell stood in support of the bill.

Eunice Simpson stood in support of the bill. She stated this this bill would make the law more effective and efficient.

PUBLIC HEALTH
PAGE FOUR
MARCH 18, 1983

Doug Olson, attorney representing the Montana Seniors' Advocacy Assistance, stood in support of the bill. Mr. Olson handed in written testimony to the committee for their review. See exhibit 2.

With no further proponents, the chairman called on the opponents.

Norman Vestre, representing the Department of Social and Rehabilitation Services stood in opposition to the bill.

With no further opponents, the chairman opened the meeting to a question and answer period from the Committee.

Senator Marbut asked what happened to this bill in the House of Representatives.

Senator Christiaens asked how many senior citizens there are in the state. There are 118,000 senior citizens in the state.

Senator Jacobson asked if the grandfather clause was necessary in the bill. This is a necessary part of the bill to insure stability in the program for the next four years.

Senator Stephens asked that someone explain what area agency on aging does.

Representative Bengtson closed.

DISPOSITION OF HOUSE BILL 96: Senator Hager handed out a copy of that part of the minutes which had to do with the hearing on House Bill 96. See exhibit 3.

A motion was made by Senator Hager that House Bill 96 BE CONCURRED IN. Motion carried unanimously. Senator Hager will carry this bill on the floor.

DISPOSITION OF HOUSE BILL 420: This bill will license youth camps and work camps.

A motion was made by Senator Christiaens that House Bill 420 BE CONCURRED IN. Motion carried unanimously. Senator Christiaens will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 708:

Senator Hims1 stated that he did not think that this bill was necessary as it is already being done.

PUBLIC HEALTH
PAGE FIVE
MARCH 18, 1983

Senator Marbut stated that he supported the bill. His area has a good relationship with the senior citizens and the people in the agency are doing in a good job.

Senator Christiaens stated that this is being run through the welfare department in Cascade County. This is the reason that people do not like to use it much. Senior citizens are a proud people and do not like to have to go to welfare.

Senator Hager stated that he could tell that the Committee was not ready to vote on this bill yet.

DISPOSITION OF HOUSE BILL 182:

Senator Hager made a motion that the proposed amendments to HB 182 be accepted. Motion carried.

A motion was made by Senator Hager that HB 182 BE CONCURRED IN as amended. Motion carried unanimously. Senator Hager will carry this bill on the floor of the Senate.

DISPOSITION OF HOUSE BILL 699:

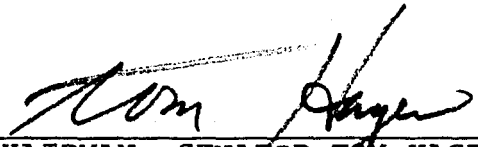
Senator Jacobson moved that House Bill 699 BE CONCURRED IN.

A substitute motion was made by Senator Hager to accept the amendments proposed by the City of Helena. Motion failed. See Roll Call Vote Sheet.

A vote was taken on the motion of Senator Jacobson. Motion carried. Senator Jacobson will carry this bill on the floor of the Senate.

ANNOUNCEMENTS: The next meeting of the Public Health, Welfare and Safety Committee will be held on Monday, March 21, 1983 in Room 410 of the State Capitol Building to consider House Bills 248, 728, 792, and 862.

ADJOURN: With no further business the meeting was adjourned.



CHAIRMAN, SENATOR TOM HAGER

ROLL CALL

PUBLIC HEALTH, WELFARE, SAFETY COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/18/83

[illegible]

SENATE

COMMITTEE

BILL 663

VISITORS' REGISTER

DATE _____

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)

SUPPORT

OPPOSE

Mary Aber

SLCAARP

663

✓

Al Hartwig

SLC-AARP

663

✓

Thorne T. Leland

nat. rehab assoc

687

✓

Jane Anderson

Oleum T. Agency

663

✓

Doug Olson

Mt. Senois advoc. assoc.

663

✓

Lenore Taliferro

Long Term Care Ombudsman

663

✓

Walter G. Taylor

Senior Citizens

663

✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

PROPOSED AMENDMENTS TO HOUSE BILL 182

1. Strike: statement of intent in its entirety

2. Title, line 6.

Following: "THERAPISTS"

Strike: remainder of line 6 through "REQUIREMENTS;" on line 7.

3. Title, line 8.

Strike: "37-11-203, 37-11-301, 37-11-304,"

4. Page 1, line 13.

Strike: Sections 1 through 3 in their entirety

Renumber: subsequent sections

5. Page 3, line 24.

Following: "chapter."

Insert: "Those applicants who have been licensed in another state or territory by examination other than that examination recognized under this chapter may be considered for licensure by the board if the requirements for physical therapy license in the state or territory in which the applicant was tested were at least equal to those requirements in force in this state at that time."

6. Page 3, line 25.

Strike: "AND, AFTER JUNE 30, 1985,"

7. Page 4, line 20.

Strike: Section 6 in its entirety

Renumber: subsequent sections

8. Pages, line 2

Strike: Section 7 in its entirety

Renumber: subsequent section

NAME: Mr. Loral Akhat DATE: 3/18/53

ADDRESS: 219 - End Ave. No. Secret Falls, N.Y.

PHONE: 453-4866

REPRESENTING WHOM? Board of Chiropractors

APPEARING ON WHICH PROPOSAL: NB 513 - NB 671

DO YOU: SUPPORT? yes AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Copy 1

BOARD OF CHIROPRACTORS

DEPARTMENT OF COMMERCE



TED SCHWINDEN, GOVERNOR

1424 9TH AVENUE

STATE OF MONTANA

(406) 449-3737

HELENA, MONTANA 59620-0407

March 18, 1983

TO: Senate Public Health Committee

FROM: Dr. Carrol Albert, President
Board of Chiropractors

CEA

The Board of Chiropractors asks your support of H.B. 513 and H.B. 671.

H.B. 513 is a request of the Board to provide for a late renewal fee. At the present time, 40% of the current licensees renew late. This results in additional work load which involves sending out a third renewal notice, checking continuing education credits, and record keeping. We feel that with the additional work required for a late renewal that these licensees should pay a penalty if they have not renewed within 30 days of the expiration date of their license which is September 1st of each year. At a proposed fee of \$10, this would raise \$400 per year at this time and would offset the costs associated with the additional work load.

H.B. 671 is a bill at the request of the Board of Chiropractors to revise the laws pertaining to chiropractic examinations. The Federation of Chiropractic Licensing Boards has emphasized that state regulatory boards should update their laws on examinations due to the number of outdated sections.

As a result of Federation information, the Montana Board of Chiropractors proposed to upgrade our statutes to bring the subjects of examination current with the subjects being taught in chiropractic colleges and to provide for an applicant to also be examined on x-ray procedures, including the use of radiographs. State regulatory boards are being challenged on their examinations and Montana is no different, therefore the Board strongly requests your consideration and passage of H.B. 671.

This bill also provides for board authority to require applicants to write a clinical proviciency examination even though they have passed both parts of the National Boards. This is currently provided by rule, but the Board feels they need legal authority to provide for examination for this requirements to test the qualifications of an applicants.

CITY OF HELENA
TESTIMONY ON HB 699

There are two bills before this Legislature (HR 465; and HB 699) that include a proposal to extend the prohibition of local government licensing to those local governments with self government powers. We did not testify against these bills in the House of Representatives committee hearings because this change was a minor portion of a larger bill, and was not noticed in time.

While we agree that local governments should not be regulating the industries involved through ethical or professional requirements for licensing, there is no reason that these businesses should be exempt from a local general business license. Local governments issue general business licenses under police powers and to aid in financing the extra costs associated with services provided to business areas. The exemption of these businesses does not seem appropriate where their neighbor's business, for example a retail store, is required to be licensed.

The local government licenses in no way duplicate or expand the regulatory function performed by the State in its licensing requirements for these professions.

The local government also does not license the individuals but the business itself.

We recommend, therefore, that the provision prohibiting licensing by local governments in each of these bills be amended out in its entirety.

We are not opposed to any other sections of these bills.

The amendments we propose are as shown on the attached sheet.

PROPOSED AMENDMENTS TO HB 699

Page 1, Line 15, 16, and 17

Delete: "prohibiting a license fee ~~or-business-tax~~ on dental hygienists by a local government and clarifying the similar prohibition for dentists;"

Page 1, Line 15 and 16

Insert: "Removing prohibition of local governments from requiring business licenses;"

Page 8, Lines 6 through 10

Delete entire paragraph (Section 37-4-307 (7)) of

Page 15, Lines 22 through 25

Delete entire paragraph (Section 37-4-406 (8))

E Exhibit 3

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 9, 1983

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Wednesday, February 9, 1983 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. Woody Wright, staff attorney was also present.

Many visitors were also in attendance. See attachments.

CONSIDERATION OF HOUSE BILL 96: Representative Dan Yardly of House District 74 in Livingston, the chief sponsor of House Bill 96, gave a brief resume of the bill. This bill is an act to clarify and law relating to junkyards along roads by amending the provisions relating to motor vehicle graveyards, motor vehicle wrecking facilities, garbage dumps, and sanitary landfills to conform to the applicable provisions of Title 75, Chapter 10, MCA and by clarifying the provisions on additional screening.

Larry Mitchell, representing the Department of Health and Environmental Sciences, stood in support of the bill. He stated that Montana presently has two laws which regulate the location screening and licensing of wrecking yards: The Highway Department's Junkyards Along Roads Act, and the Health Department's Motor Vehicle Recycling and Disposal Act. The Health Department's law is more restrictive in that it requires screening and licensing of all motor vehicle wrecking facilities. The Highway law is concerned only with those wrecking facilities and junkyards within 1000 feet of federal primary or interstate highways. The Health Department licenses all wrecking facilities but has no authority over junkyards which are not wrecking facilities. Federal law requires that the states control junkyards, including motor vehicle wrecking facilities, along federal primary or interstate highways or face a possible 10% reduction in federal highway aid. Except for the Health Department's lack of authority over non-wrecking facility junkyards, Title 75, Chapter 15, Part 2, MCA, could be repealed in its entirety without affecting the state's highway funding.

The next best solution is offered by this bill. It takes wrecking facilities and solid waste disposal areas out of the Highway's definition of junk or junkyards and clarifies that those activities are and will remain regulated under the existing authority of the Health Department. With the passage of this bill, it will be clear that Montana has one law which regulates the establishment and operation of wrecking facilities administered

PUBLIC HEALTH
PAGE TWO
FEBRUARY 9, 1983

by the Department of Health, and one law which regulates other junkyards, as required by federal law, administered by the Highway Department. Solid Waste disposal sites will continue to be regulated by the Department of Health under Title 75, Chapter 10, Part 2, MCA, 1979.

Bill Romine, representing the Wrecking Yards, stated that the wrecking yards would prefer having to deal with only one agency, rather than two. Right now there are two sets of rules, one for those within 1,000 feet of an interstate or primary and for those elsewhere. It only makes sense to have only one set of rules rather than two.

Beate Golda, representing the Department of Highways, stood in support of the bill. Ms. Golda handed in written testimony to the Committee for their review. See exhibit 1.

With no further proponents, the chairman called on the opponents, hearing none the meeting was opened to a question and answer period from the Committee.

Senator Himsl asked about page 2 the different definitions of junkyards, motor vehicle wrecking facility.

Representative Yardley closed. He stated that the purpose of the bill is to clarify an existing problem.

CONSIDERATION OF SENATE BILL 289: Senator Bill Norman of Senate District 47, the chief sponsor of SB 289, gave a brief resume of the bill. This bill is an act to establish qualifications for persons who represent themselves as dietitians or registered dietitians; to prohibit persons who do not meet the qualifications from representing themselves as such; and to provide a penalty for violation.

Senator Norman stated that this is being administered by the Department of Health.

Mary Mimsel, representing the Department of Health, stood in support of the bill. She offered a letter from Dr. John Drynan for the record. See exhibit 2.

Minkie Medora, representing the Montana Dietetic Association, stood in support of the bill. She stated that strict standards are need for the protection of the people of Montana. She brought several letters to be entered into the record. See exhibits 3 through 7.

TESTIMONY ON H.B.663

The Area III Agency on Aging was composed of nine counties prior to July 1, 1982. After that date the Area Agency was reduced by two counties when Hill and Cascade Counties received their separate Planning and Service Area status.

Since that time Area III has strengthened itself and has become a very workable organization. The Senior Citizens within Area III have rallied in full support of the Area office whenever they were called upon. When the Legislative Finance Committee held a hearing in their investigation of the efficiency of Area Agencies one group of Seniors even chartered a plane at their own expense to fly to Helena to testify.

Area III, which takes in Blaine, Chouteau, Glacier, Liberty, Pondera, Teton and Toole Counties, has a total of 6,923 senior citizens. In the past four months, of that number, 3,375 seniors have used some service offered by their senior centers. The services made available through the senior centers include nutrition, home-delivered meals, transportation, health screening, home chore, outreach, information and referral and nursing home ombudsman, and legal aid. One county also has a home-health service in place.

Since ours is a rural Area, for many of the senior citizens the senior center is the only place they can relate to.

One personal note, if I may -- Senior Citizens are the greatest people in the world to deal with and work for and if we can improve the quality of life and keep them out of nursing homes as long as possible, I think that is the greatest Montana can give.

I would sincerely ask for a favorable vote on H.B.663, so that Area III can continue to serve our senior citizens and not disrupt or change the method of service.

Thank you

Beverly Robinson, Area III Director

Exhibit 2

MONTANA SENIORS' ADVOCACY ASSISTANCE

P.O. Box 232 • Capitol Station • Helena, Montana 59620
(406) 449-4676 (Helena) • 1-800-332-2272 (Toll-free)

DOUGLAS B. OLSON, Attorney
Elderly Legal Services Developer

March 18, 1983

Senators
Senate Public Health Committee
48th Legislative Session
Capitol Station
Helena, Montana 59620

re: House Bill 663

Dear Chairman Hager and Committee Members:

I am appearing before you today as a registered lobbyist for Montana Seniors' Advocacy Assistance (MSAA), an entity that is responsible under a contract pursuant to a federal Older Americans Act grant for developing and coordinating legal services in Montana for senior citizens. Specifically, I function as the designated "Legal Services Developer" for Montana to fulfill Montana's obligations under Section 307(a)(15)(C) for its State Plan on Aging to coordinate legal services and advocacy assistance.

Today, I appear before you to support the basic principles and purposes behind House Bill 663 which would statutorily authorize the Department of Social and Rehabilitation Services (SRS) to administer a state plan on aging. SRS has been responsible for administering the state programs for aging for a number of years and has relied on the authority granted it by the legislature in section 53-5-102, MCA. That section provides:

"53-5-102. Grants and gifts to department. The department of social and rehabilitation services may receive on behalf of the state any grant from the federal government or any grant or gift from any source and accept the grant or gift so that the title shall pass to the state. All grants, grants-in-aid, or gifts shall be deposited with the state treasurer and shall be continuously available to the department."

In addition, section 53-5-101, MCA, provides in part that, "The department of social and rehabilitation services shall: ... (5) coordinate, through area agencies councils on aging, the delivery of community based care, including but not limited to home health care, homemaker services, foster home care, nutrition, transportation, winterization, information and referral, and recreation."

MSAA letter to Senate Public Health Comm.
March 18, 1983
re: House Bill 663
Page 2

In order to receive a grant from the federal government under the federal Older Americans Act, 42 USC 3001 et seq., Montana has designated the department of social and rehabilitation services (SRS) as the state agency on aging and SRS has had to develop and submit to the federal Administration on Aging a state plan on aging. The state plan on aging prescribes the terms and conditions that Montana will follow for the administration of these federal grant monies that are passed through to local area agencies on aging. At the present time the state plan on aging is not adopted as a rule pursuant to the Montana Administrative Procedure Act (MAPA) because no statute exists granting SRS express or implied rulemaking authority. House Bill 663 if enacted into law will grant this authority to SRS and will set the conditions and limitations of the rulemaking authority.

As I indicated to you previously, I support the intent of HB 663, that is to grant SRS express authority to administer the state plan on aging and to guide SRS as it seeks to fairly administer the grant monies to all senior citizens by keeping the number of approved planning and service areas (PSAs) and Area Agencies on Aging (AAAs) to a financially manageable number. I will offer no opinion on what this number should be, only that the legislature should provide some guidance to SRS in this regard.

I would request, however, that your committee consider amending the Statement of Intent that accompanies HB 663 so that the rulemaking authority that is granted to SRS is broad enough to authorize it to adopt all rules necessary so that Montana's State Plan on Aging can be compatible with the requirements mandated under the federal Older Americans Act and regulations. The present Statement of Intent is too limited in its scope.

By way of illustration, each Area Agency on Aging (AAA) is required to spend an "adequate proportion" of the Title IIIB federal Older Americans Act monies it receives for access, in-home and legal services. (42 USC 3026(a)(2)). The state plan on aging is to define what constitutes an "adequate proportion" for each of these priority services. (See March 2, 1983, Federal Register, page 8964.). The existing Statement of Intent for HB 663 is too restrictive on lines 19 page 1, through line 5 of page 2, in this respect. A subsection needs to be added which would grant SRS sufficient authority to adopt all rules necessary for it to comply with the federal Older Americans Act and the federal regulations adopted pursuant thereto which specify what a state plan on aging must contain to be approved.

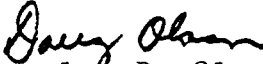
MSAA letter to Senate Public Health Comm.
March 18, 1983
re: House Bill 663
Page 3

MSAA would offer for your consideration the amendment attached to this letter which will enable SRS to adopt by administrative rules a state plan on aging which will comply with all federal laws and regulations so that Montana can continue to receive the federal grant monies allocated by Congress to it.

In summary, as the person responsible for developing and coordinating legal services for the elderly in Montana, I support the intent of House Bill 663 but believe that the scope of its rulemaking authority as expressed in its accompanying "Statement of Intent" needs to be amended to give sufficient authority to SRS to adopt all that is necessary by rule for an approvable state plan. Without this amendment, it could later be argued that SRS did not have adequate rulemaking authority to adopt portions of the state plan which it clearly must include.

Thank you for the opportunity to express my views and concerns on House Bill 663.

Sincerely,


Douglas B. Olson
Attorney
Contracted Developer of
Elderly Legal Services
Montana Seniors' Advocacy Assistance

Attachment

MONTANA SENIORS' ADVOCACY ASSISTANCE
recommended amendment to HB 663

Statement of Intent

March 18, 1983

Third reading copy

1. Line 6, Page 2

Insert new subsection (6)

"(6). Any other conditions, definitions, procedures, programs or standards required for a state plan on aging to be approved pursuant to Section 307 of the federal Older Americans Act and the federal regulations adopted pursuant thereto (42 USC 3027)."

STANDING COMMITTEE REPORT

MARCH 18, 19 83

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE Bill No. 182,

WINSLOW

(HAGER)

Respectfully report as follows: That HOUSE Bill No. 182

blue copy be amended as follows:

1. Strike: statement of intent in its entirety.

2. Title, line 6.

Following: "THERAPISTS"

Strike: remainder of line 6 through "REQUIREMENTS;" on line 7.

3. Title, line 8.

Strike: "37-11-203, 37-11-301, 37-11-304,"

4. Title, line 9.

Following: "37-11-307"

Strike: ", "

5. Page 1, line 13.

Strike: Sections 1 through 3 in their entirety

Renumber: subsequent sections

XXXXXX
B67489

CONTINUED

6. Page 3, line 24.

Following: "chapter."

Insert: "Those applicants who have been licensed in another state or territory by examination other than the examination recognized under this chapter may be considered for licensure by the board if the requirements for physical therapy license in the state or territory in which the applicant was tested were at least equal to those requirements in force in this state at that time."

7. Page 3, line 25.

Strike: "AND, AFTER JUNE 30, 1985,"

8. Page 4, line 20.

Strike: Section 6 in its entirety

Renumber: subsequent sections

9. Page 5, line 2.

Strike: Section 7 in its entirety

Renumber: subsequent section

And, as so amended,
BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 18

19 83

MR. **PRESIDENT:**

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **671**

MENEHAN (JACOBSON)

Respectfully report as follows: That **HOUSE** Bill No. **671**

~~XXXXXX~~ BE CONCURRED IN

SENATE COMMITTEE PUBLIC HEALTH, WELFARE, AND SAFETY

Date MARCH 18, 1983 HOUSE Bill No. 699 Time

NAME	YES	NO
SENATOR TOM HAGER	1	
SENATOR REED MARBUT	✓	
SENATOR MATT HIMSL	✓	
SENATOR STAN STEPHENS		✓
SENATOR CHRIS CHRISTIAENS		✓
SENATOR JUDY JACOBSON		✓
SENATOR BILL NORMAN		✓

Chaim Gravelly
Secretary

Tom Hager
Chairman

Motion: A motion was made by Senator Hager that the City of
Helena amendments be accepted for House Bill 699. Motion failed.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

MARCH 18, 19 83

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE Bill No. 699

WINSLOW (JACOBSON)

Respectfully report as follows: That HOUSE Bill No. 699

~~REPORT~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 18

1983

MR. **PRESIDENT:**

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **420**

DOZIER (CHRISTIAENS)

Respectfully report as follows: That **HOUSE** Bill No. **420**

~~XXXXXX~~ **BE CONCURRED IN**

STANDING COMMITTEE REPORT

MARCH 18 19 83

PRESIDENT:

MR.

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **96**

YARDLEY (HAGER)

Respectfully report as follows: That **HOUSE** Bill No. **96**,

~~XXXXXX~~ **BE CONCURRED IN**

.....
SENATOR TOM HAGER

Chairman.

STANDING COMMITTEE REPORT

MARCH 18

19 83

MR. **PRESIDENT:**

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **687**

MENAHAN (NORMAN)

Respectfully report as follows: That **HOUSE** Bill No. **687**

DOES BE CONCURRED IN

STANDING COMMITTEE REPORT

MARCH 18, 19 83

MR. **PRESIDENT:**

We, your committee on **PUBLIC HEALTH, WELFARE AND SAFETY**

having had under consideration **HOUSE** Bill No. **513,**

PAVLOVICH (JACOBSON)

Respectfully report as follows: That **HOUSE** Bill No. **513,**

~~DEPRESSED~~ **BE CONCURRED IN**